MONTEREY COUNTY

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August 30, 2002

The Honorable Robert O'Farrell
Presiding Judge of the Superior Court, Monterey County
P. O. Box 1819
Salinas, CA 93902
Attention: Grand Jury

Honorable Robert O'Farrell:

The following information is provided in response to a request by the Grand Jury in a letter dated July 18, 2002:

INCLUSIONARY HOUSING IN MONTEREY COUNTY

RECOMMENDATION #1: The Board of Supervisors revise the Inclusionary Housing Ordinance, program, and procedures to better reflect the needs of County residents.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that these actions should be completed by June of 2002.

On April 9, 2002 the Board of Supervisors adopted the recommendations included in the Inclusionary Housing Evaluation Report with the revisions recommended by the Housing Advisory Committee and the Planning Commission. The Board also directed staff to prepare the draft Inclusionary Ordinance, procedural manual, and supporting documents to implement the recommendations.

Immediately following the April 9, 2002 Board of Supervisors action, the Housing Division retained the services of Melanie Shaffer-Frietas, housing consultant, and Goldfarb Lipman, special housing legal counsel, to assist staff in the preparation of the required documents.

The implementing actions were delayed due to the necessity to coordinate revisions with the preparation of the draft General Plan and Housing Element. The required implementing actions should be completed by November 15, 2002.

RECOMMENDATION #2: The Board of Supervisors annually reviews the Inclusionary Housing Program for updating and compliance.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that "The recommendation will be implemented. A status report…will be presented… on March 13, 2002."

An annual review of the Inclusionary Housing Program will be included in the Annual Housing Report, which is submitted to the Board of Supervisors each year in January. Housing staff has been providing the Housing Advisory Committee with monthly status reports on the inclusionary housing monitoring program since March of 2002.

RECOMMENDATION #4: Applicants be chosen by a lottery conducted by the Redevelopment and Housing Division.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that the lottery process should be in place by June of 2002.

The Inclusionary Housing Program Procedural Manual, which is currently being prepared in conjunction with the Inclusionary Housing Ordinance, will contain the lottery process for selection of inclusionary buyers and renters. The implementing actions were delayed due to the necessity to coordinate revisions with the preparation of the draft General Plan and Housing Element. The required implementing actions should be completed by January 1, 2003.

MONTEREY COUNTY WORKFORCE HIRING/RETENTION

RECOMMENDATION #1: The Board of Supervisors direct that a plan with specific solutions to prioritize and address those high impact problem positions be developed and implemented.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that these actions should be completed by June 30, 2002.

The implementation is complete. Efforts to address high impact problem positions will continue to be a high priority within affected departments and countywide. It is important to maintain ongoing efforts and vigilance relative to individual department needs and circumstances. Hard to fill positions will vary to some degree based on fluctuating economic and business conditions and other local and social dynamics. Methods for seeking solutions and consistently attracting and retaining qualified employees must include consideration of these issues as a component in the continuous review and revision of policies and procedures that address hard to fill vacancies.

Departmental Personnel Analysts have been working with their individual department heads and departmental staff to develop action plans to specifically address high impact problem positions unique to their departments. For example, to address issues related to law enforcement and public safety departments' difficult to fill positions and recruitment and retention concerns, a committee was formed of representatives from those departments. The committee collaborated to share experience, identify common problems and goals, and to review alternatives and best practices. It is agreed that development of action plans must include utilization of Board approved policies such as the hiring bonus, relocation/moving allowance, employee referral bonus program, flexibility options in hiring step placement, and enhanced tuition assistance, as appropriate to the individual recruitment and as determined by the recruiting department.

Additionally, the County Administrative Office has been meeting with the decentralized analysts to review countywide clerical positions and related ongoing efforts to continuously attract and maintain a qualified applicant pool. The Board of Supervisors is scheduled to act on a recommendation to retitle countywide clerical positions at its September 10, 2002 meeting as a next step in bringing recruitment efforts up-to-date for these classifications.

It is intended that high impact problem positions will be identified and addressed on a continuous basis within affected departments and countywide in a manner consistent with county policies, procedures and values and through utilization of Board approved programs and policies.

RECOMMENDATION #2: The Board of Supervisors direct Human Resources to work toward standardizing the County policies, procedures, and practices.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that "…standardization is an on-going process; As opportunities present themselves, further standardization will occur."

The implementation is in progress and ongoing. Policies and practices will be under continuous review to assure efforts reflect current circumstances and needs in the somewhat cyclical and highly competitive hiring environment. Currently, departmental Personnel Analysts have been working together to review and update policies and procedures detailed in the Personnel Services Manual (PSM). This is the guiding resource developed to provide direction and countywide consistency in recruitment, classification, and related Personnel Analyst job duties. One goal in the ongoing review of this document is to revise and/or eliminate unnecessary policies and procedures and to streamline and simplify processes to every extent possible, while still maintaining countywide consistency and integrity in recruitment, hiring, and job classification practices.

RECOMMENDATION #4: The Board of Supervisors direct Human Resources to develop and provide to each employee an annual personalized employee benefit report, which spells out the value of each benefit as well as total compensation value.

STATUS: The Grand Jury Response indicated that the "recommendation will be implemented/could be implemented in conjunction with the County's new payroll system."

This information was provided in a general, generic format in the August 2002 Benefits Newsletter. Specific annual personalized reports are not feasible until systems are developed and implemented to facilitate gathering, sorting and compiling required information in an individualized format through the County's proposed new payroll system. Requirements for a new payroll system are currently under review under direction of the County Auditor-Controller's office. A Request for Proposals (RFP) for such a system was issued on August 23, 2002, with a potential implementation date of January 2004. Development and implementation are the responsibility of the Auditor-Controller's Office.

RECOMMENDATION #5: The Board of Supervisors direct Human Resources to streamline and/or eliminate policies and procedures which are obstacles in the hiring process.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury Report indicated that the "recommendation will be implemented…a review will be conducted by 6/30/02."

The implementation is in progress and ongoing. The County Administrative Office has contracted the services of Cooperative Personnel Services to review the Human Resources Decentralization process. It is anticipated that this project will be completed by September 30, 2002 and identify opportunities to streamline existing policies, procedures and practices.

RECOMMENDATION #6: The Board of Supervisors direct Human Resources to develop a review procedure to monitor and assure compliance with standardized policies, procedures, and practices.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury stated the "recommendation …will be developed by the summer of '02."

The implementation is in progress and ongoing. Based on the outcome of the review conducted by Cooperative Personnel Services recommendations will be implemented. Systems will be developed for establishing effective auditing procedures to assure compliance with policies, procedures, and practices.

RECOMMENDATION #7: The Board of Supervisors continue strong budgetary support of the Monterey County Leadership Institute.

STATUS: The March 12, 2002 Response to the 2001 Grand Jury stated "This recommendation will be implemented."

The implementation is in progress and ongoing. The Board of Supervisors approved Monterey County's budget on June 25, 2002. Part of the approved budget included strong budgetary support of the Leadership Institute.

If additional information is required, please do not hesitate to contact me.

Sincerely,

Dave Potter

Dave Potter, Chair
Monterey County Board of Supervisors

Attachments regarding Inclusionary Housing in Monterey County:

1. Inclusionary Housing Evaluation Report
2. Board Order adopting recommendations

Attachments regarding Monterey County Workforce Hiring/Retention:

1. Board approved policies

cc: Dan Reith, Foreman, 2002 Grand Jury
Ed Kramer, Chairman Response Committee, 2002 Grand Jury
Supervisors Fernando Armenta, Judy Pennycook, Louis R. Calcagno, and Edith Johnsen

How Did We Do?

An Evaluation of the Inclusionary Housing Program

County of Monterey

March, 2002

Prepared by:
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EXECUTIVE SUMMARY

Since 1980, the County's Inclusionary Housing Ordinance has required that at least 15% of all new residential development comply with the Ordinance's provisions. This has resulted in a commitment to provide 525 housing units and the generation of approximately $5.3 million in in-lieu fees. Of those 525 units, 317 units are in the County's inventory and have either been built or have commitments to build. The remaining 208 units were committed during the Housing Authority's administration of the program (1980-85). In-lieu fees have helped with financial or development assistance costs for 940 units, which are currently being monitored for their affordability status. Additionally, the Special Handling Program, which implements incentive provisions of the Inclusionary Ordinance, has resulted in 270 units. Therefore, a total of 1,735 units were provided either directly or indirectly as a result of the Inclusionary Housing Ordinance.

An evaluation of the Inclusionary Housing Ordinance and program was conducted during 2001. A significant effort was expended by staff from the Housing and Redevelopment Office to identify major issues and inventory the units produced. There were 18 major issues identified during the evaluation process. These issues are discussed beginning on page 16 of this report and summarized in the table on page 36. Recommendations have been developed to address these issues. Some of the more significant recommendations included in this report include:

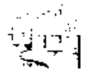
- Inclusionary Housing shall be provided according to the following priorities:
  1. Provision of Inclusionary units on-site.
  2. Provision of Inclusionary units off-site, however only new units can be constructed and there must be a demonstration of a "greater contribution" with the off-site units.
  3. Payment of in-lieu fee for developments of 6 or less units. Payment of an in-lieu fee for developments of 7 or more units is only allowed where on or off site development would be infeasible due to specific property constraints.

- Revised and improved procedures will be implemented to assure better monitoring of Inclusionary units and ensure compliance with requirements.

- Marketing and selection procedures will be revised to include a lottery system with priority to households who live and or work in Monterey County.

- Homeowner Inclusionary Units will be allowed an increased value for home improvements and bedroom additions. Further, changes will be made to allow for increased flexibility in refinancing or obtaining second deed of trusts.

The County's Inclusionary Housing Program is over 20 years old. The objective of the program has been to provide long-term, affordable housing units for households who live and/or work in Monterey County.



To assist the reader, those issues that generated the most significant discussion during the public comment period are identified by this graphic in the side margin.

A. Overview of Inclusionary Housing

Inclusionary Housing programs have been in existence in California for more than 25 years. In fact, Monterey County's Inclusionary Program was first adopted in 1980, over 21 years ago.

Inclusionary Housing is defined as a citywide or countywide mandatory requirement or voluntary objective that assigns a percentage of housing units in all new residential developments with more than a specified minimum number of units, to be sold or rented to lower- or moderate-income households at affordable rates. It is important to note that Inclusionary Housing is not mandated or required by any State law. Rather, in California, it is at the discretion of individual communities as to whether they want to adopt an Inclusionary Housing Program. In 1996, it was estimated that there were 75 communities with Inclusionary Housing Programs in California. Most of these programs are found primarily in jurisdictions clustered around San Francisco and in Southern California coastal communities. ("Inclusionary Housing in California", *Journal of the American Planning Association*, Spring, 1998)

The major objective for most communities in establishing an Inclusionary Housing Program is to ensure that housing affordable to lower- and moderate-income households will be constructed. Because there are no State-mandated guidelines for Inclusionary Housing Programs, each community's program can be designed to respond to their own needs. Most programs, however, include guidelines that address the following components:

- Assistance to Lower- and Moderate-Income Households.
- Long-Term Affordability.
- Flexibility in Selecting Options To Meet Inclusionary Requirements (On-site, Off-site, In-Lieu Fees).

B. Growth Management and Legal Challenges

In the late 1970s and into the 1980s, many California communities experienced a rapid increase in growth. As a response, communities began to implement growth-control measures. The earliest Inclusionary programs in California were a response to the first generation of growth management efforts. These programs were concentrated in Northern California, especially the San Francisco Bay Area.

Inclusionary programs were often created in response to legal challenges to a community's growth management program. Very simply, an Inclusionary program could demonstrate that a community was not excluding lower- and moderate- income households while controlling the number of building permits that a community would allow. In fact, Monterey County's program was established in 1980, one year after the County adopted a Growth Management Amendment to the General Plan.

Although there have been some legal challenges to Inclusionary Housing Ordinances (most recently in Napa in 2000-2001), these challenges have generally not been upheld by the courts.

INCLUSIONARY HOUSING IN MONTEREY COUNTY

A. Overview

1980: Ordinance Establishing Inclusionary Housing Program Is Adopted

The County of Monterey's Inclusionary Housing Program was established on October 28, 1980 with the adoption of Ordinance #2673 by the Board of Supervisors. The program was established following the adoption of a Growth Management Amendment to the General Plan in 1979. From the beginning, there was considerable discussion and tension regarding the program. In fact, in March of 1981 (less than one year after its adoption), the Board of Supervisors was considering the repeal of the Ordinance. However, the State Office of Planning and Research had granted the County a temporary immunity from lawsuits to the General Plan based on the existence of the Inclusionary Housing Ordinance. The General Plan was being challenged because of the growth management amendment and the lack of an updated Housing Element. The Board subsequently decided not to repeal the Ordinance in order to protect the County's General Plan from being challenged legally.

Throughout the two decades since the adoption of Ordinance #2673, the Inclusionary Housing Program has experienced fluctuations in production, variations in administrative procedures and a variety of agencies or departments responsible for its implementation. The following sections of this report attempt to describe the history of the program from 1980 to 2001.

B. Establishment of Program and Housing Authority role

Housing
Authority
Manages
Inclusionary
Program

After the adoption of Ordinance #2673, the responsibility for day-to-day administration of the Inclusionary Program was established with the Housing Authority of the County of Monterey. The Ordinance (Section 4.8) designated that *"all units, land and monies contributed pursuant to the provisions of this ordinance shall be contributed to the Housing Authority and shall thereafter be administered and disposed of by the Housing Authority."* In return, the Ordinance specifies that the Housing Authority is to develop eligibility standards, qualify applicants, assist developers in fulfilling their obligations and maintain information regarding land and money availability and identified needs for low and moderate income housing within the County. However, it appears that the Housing Authority and Planning Department were jointly responsible for tracking and recording Inclusionary agreements during this time period. It is important to note that, due to the joint responsibility, there were files and information transferred between the two agencies, which have made it difficult for the Housing Authority to track data now almost 15-20 years after the fact. The Housing Authority is currently utilizing all available staff resources to identify as much information as possible.

Some of the key features of the Inclusionary Program during this time include:

- 15% Inclusionary Requirement (requirement was based on 15% of the number of all units in the proposed development).
- Developments of 5 or more units could choose to provide:
  - a. 15% on-site
  - b. 15% off-site
  - c. 15% of lots transferred to Housing Authority
  - d. payment of in-lieu fee (approximately $1000 per unit/lot).
- Developments of less than 5 units would pay an in-lieu fee that was based on a proportion of the $1000 fee figure, depending on the actual number of units.
- Priority for occupancy of Inclusionary Units was to be given to residents of Monterey County and those employed in Monterey County.
- For Sale Inclusionary units had restrictions which controlled resale for 59 years.
- Inclusionary Units could be sold at market value but a certain percentage of the seller's profit was to be repaid to the Housing Authority.

During the 1980-85 time period, it is estimated that the following units/lots were committed in the Inclusionary Program:

Type of Inclusionary Contribution	Total Estimated Inclusionary Units Produced Between 1980-85	Number of Total Units Still Estimated to be in Inclusionary Stock
For Rent Units	150 Units	90 Units: Verified 60 Units: *In Process of Being Determined*
For Sale Units	58 Units/Lots	*In Process of Being Determined*
TOTAL	208 Units/Lots	*In Process of Being Determined*

Source: Housing and Redevelopment Office, County of Monterey 2001

The 150 for-rent units include 50 units at Lakeview Towers, which the Housing Authority is managing and 40 units at Vista De la Terraza which is managed by CHISPA. Other than these 90 units, the affordability status of the 60 remaining units is still unclear. In preparation for this 2001 report, the Housing Authority staff reviewed program files and existing deeds and reported that, as of March 2002, they are still trying to verify occupancy and affordability of the remaining 60 rental units. At least 12 of those units are in question and may actually be "duplicate" units. In many instances, there are incomplete or missing legal documents which has made verification difficult. The Housing Authority is also verifying the current affordability status of the 58 ownership units. (See page 16 for more information regarding the ownership units.)

In-Lieu Fees Collected

In regard to in-lieu fees, approximately $1.2 million dollars was collected by the Housing Authority as a result of activities during the 1980-85 time period. According to Housing Authority records, the majority of those funds were used for the following activities:

1980-85: Approximately $1.2 million in in-lieu fees collected.

Pacific Meadows (Carmel Valley Overview)	$183,450 (200 Units)
Plaza Hotel (Salinas)	$674,249 (27 Units)
Purchase of 2 Houses in Moss Landing	$135,000 (2 Units)
Pajaro-earthquake rehabilitation	$100,000
Homeownership Counseling Program	$ 70,000
Administrative Costs	$ 55,000
TOTAL	$1,217,699.00

The Housing Authority reports that there are no funds remaining in the in-lieu fee account.

C. Program Transferred to Planning Department

During 1985-86, the day-to-day management of the Inclusionary Housing Program was transferred from the Housing Authority to the Planning Department at the County of Monterey. The Housing Authority staff, however, continued to participate in the program's administration. The Housing Authority was still under contract to determine the eligibility of Inclusionary housing recipients and to monitor Inclusionary units.

1985-86 Inclusionary Program Management Transferred to Planning Department

During this same time period of 1985-86, the County established a Housing Advisory Committee. The purpose of the Committee was to advise the Board of Supervisors and the Planning Commission on policies for the Housing Element and the Inclusionary Housing program.

In 1985, there were several significant changes made to the Inclusionary Program. Specifically, Ordinance #3093 was adopted by the Board of Supervisors and included in the Ordinance were the following provisions:

- The threshold was changed from 5 units to 7 units,
- Method for calculating in-lieu fees was described,
- All fees were to be paid to the County of Monterey instead of the Housing Authority, and
- Continued to specify that the sale of for-sale units required a payback of a percentage of the seller's profit.

Four years later, in 1989, the program was again revised through the adoption of Ordinance #3419. There were two changes to the program as a result of this Ordinance. The first change was that the administrative costs paid to the Housing Authority for determining eligibility were to be funded through the transaction costs of selling or reselling an Inclusionary unit. The second, and more significant change, was that the for-sale Inclusionary units were now required to be resold to another low or moderate income buyer at a sales price determined according to the change in median income. Further, resale restrictions were to be in effect for 30 year periods and renewed for the same time period each time the property was sold.

In 1989, the program was revised so that for-sale Inclusionary units had to be sold to another low or moderate income household at a restricted sale price.

In 1991, other minor changes were made to the program through Board Resolution #91-017. However, it was in 1994 that the program was reevaluated and again some major changes were made to the program. In the spring of 1994, the Board of Supervisors held several public hearings on the Inclusionary Housing Program. There was considerable public discussion about the program and its future direction. The Board at that time also expressed a desire to provide more options to the development community. On June 7, 1994, the Board of Supervisors adopted Ordinance #3419 (the Ordinance number duplicates the 1989 Ordinance number). Off-site development of Inclusionary units was expanded to allow off-site units either within a 10 mile radius of the market rate units or in the same unincorporated planning area as the market rate units, subject to certain conditions. Off-site units were also allowed in the Redevelopment Area nearest to the market-rate project, again subject to certain conditions. Off-site units were only to be allowed when the developer could demonstrate a "greater contribution" than providing units on-site.

Another significant change made by the Ordinance was the calculation of the in-lieu fee. The fee was based on 15% of the median sales price of a single-family home in the unincorporated area of the Planning Area in which the market rate units were being built, and then adjusted by a price differential between the lowest sales price and the median sales price. It is a complicated formula made even more difficult by an additional percentage calculation for developments of 6 units or less.

In 1996 and 1997, there were two additional Ordinance amendments which made minor changes to the program. However, for day-to-day management of the program, the 1994 Ordinance is still considered the basic guideline for program administration.

D. Housing and Redevelopment Office Assumes Responsibility for Inclusionary Program

In late 1999, the responsibility for managing the Inclusionary Program was transferred from the Planning Department to Housing and Redevelopment in the County Administrative Office. The Housing Authority continues to determine eligibility of prospective applicants for the Inclusionary Program.

Housing and Redevelopment Office established and, in 1999, assumes responsibility for Inclusionary Program

After assuming responsibility for the program, it became apparent to the Housing and Redevelopment staff that there were some significant issues that needed to be addressed. Some of the more significant issues included on-going monitoring of the program, provision of off-site units, marketing of Inclusionary units, calculation of in-lieu fees and the need for more specific written guidelines and procedures. In addition, existing Inclusionary homeowners were identifying concerns that they had with the program. Some of their concerns included calculation of resale price, property improvements, title changes, resale restrictions and inheritance of property. In order to more thoroughly address all of these issues, a complete evaluation of the Inclusionary Program was undertaken. This report is the result of that evaluation process. The next section of this report (pages 10-15) describes the County's current Inclusionary Housing Program and summarizes the program's historical accomplishments.

Inclusionary Homes in the Oak Tree Views Development

Following that section, the next chapter of this report (beginning on page 16) identifies the significant issues identified during this evaluation process and also describes recommended actions.

In 2001, an Evaluation of the Inclusionary Housing Program was Completed.

It is important to note that, in addition to the preparation of this report, the following administrative actions were undertaken in spring/summer 2001 as a result of the evaluation process:

1. Inventory and review of all available Inclusionary housing agreements,
2. Computerized data collection of all Inclusionary units and recipients,
3. Development and implementation of written procedures for processing of Inclusionary developments,
4. Development and implementation of written procedures for monitoring Inclusionary units, and
5. Review and revision of income and asset criteria for eligibility of Inclusionary applicants.

Further, considerable public review and discussion of the Inclusionary Housing Program was undertaken during the spring and summer of 2001. This review process is described in more detail on the following page.

E. Public Review Process

The Housing Advisory Committee and the Planning Commission conducted public meetings and work sessions on the Inclusionary Housing Program. There was considerable public discussion prior to this report being finalized. Listed below is a summary of the public meetings held prior to the preparation of this report.

May 27, 2001	Public Forum (Housing Advisory Committee)
June 13, 2001	Workshop (Housing Advisory Committee)
June 27, 2001	Study Session (Planning Commission)
July 11, 2001	Study Session (Housing Advisory Committee)
August 8, 2001	Study Session (Planning Commission)
September 12, 2001	Study Session (Planning Commission)
January 30, 2002	Public Hearing (Planning Commission)
February 27, 2002	Public Hearing (Planning Commission)

There was significant public review and comment on the Inclusionary Housing Program during 2001

In addition, the County also sent out a questionnaire and survey to 35 California communities with Inclusionary programs in order to determine the current "state of the art" for Inclusionary housing programs. All of this information and public comment was reviewed and considered as this report was prepared.

Summary of Public Comments

It is difficult to adequately summarize all of the comments received during the public review process. However, a common theme throughout all of the comments received was that the Inclusionary Housing Ordinance and program definitely needed to be revised.

Comments were received from individuals, non-profit groups and representatives of the development community. Examples of groups that submitted both written and oral comments included the League of Women Voters, Coalition of Homeless Service Providers, Coalition of Minority Organizations, Housing Advocacy Council, CHISPA, Landwatch, Prunedale Neighbors, Common Ground and Salinas Valley Builders Exchange. Private citizens as well as current and potential Inclusionary homeowners also commented on the Ordinance.

Overwhelmingly, there was agreement that the marketing and selection procedure for Inclusionary units needed to be revised. Most comments supported the establishment of a lottery system with priority to households who live and/or work in Monterey County. There was also agreement in the public comments that the Ordinance should continue to provide affordable units. However, there were differing opinions in regard to the percentage of affordable units, the household income level of the affordable units (very low, low or moderate) and the term of affordability restrictions.

Existing Inclusionary homeowners were most concerned about issues such as calculation of resale value, transfer of property upon death to children and the calculation of value of improvements to the property.

All of these comments were taken into consideration by the public bodies and staff and are reflected in the recommendations included in this report (beginning on page 16).

F. Goals/Philosophy of Program

Objective of Inclusionary Housing Ordinance has always been to provide long-term and affordable housing units.

From the beginning of the program in 1980, the Board of Supervisors has stated that "... the provision of housing affordable to low and moderate income households is a countywide responsibility." (Ordinance #2673, October, 1980) The Inclusionary Housing Ordinance and program is a manifestation of that responsibility. From 1980 to the present, the original Inclusionary Housing Ordinance and subsequent revisions have included several key common components; these include:

1. Inclusionary units should be affordable to low and moderate income households,
2. resale controls are necessary for Inclusionary homeowner units so that long-term affordability is preserved, and
3. provisions should be made for Inclusionary units to be available to households who live and work in Monterey County.

The Inclusionary Housing Ordinance was never intended to be a short-term response to housing conditions. Rather, it is obvious that the objective has always been to provide a long-term source of affordable units in Monterey County.

G. Description of Current Inclusionary Program

Overview

Monterey County's Inclusionary Housing Program requires that all new residential development contribute to providing affordable housing. Some developments are exempt from this provision such as individual single-family owner-occupied units, senior citizen or caretaker units, etc. In total, however, most new residential development is required to meet the Inclusionary requirement. Since the Program was first adopted, the specific objective was that 15% of approved residential development be provided as Inclusionary (affordable) housing. This requirement can be accomplished in one of three options:

1. provision of Inclusionary housing units on-site (in the same development as the market rate units),
2. provision of Inclusionary housing units off-site, and/or
3. payment of an in-lieu fee.

Developments of 7 units or more can choose which of the three options listed above are most appropriate for them to use to meet their Inclusionary requirement. Developments of 6 units or less utilize option #3 , payment of an in-lieu fee.

The Inclusionary Housing requirement applies to new residential development, both for-sale units and rental units. There are three options available to meet the Inclusionary requirement.

1. Provision of Inclusionary Units On-Site
This option allows a developer to provide the required Inclusionary units in the same development as the market rate units. For example, a 60 unit development would trigger an Inclusionary requirement of 9 Inclusionary units (15% of all units). If the on-site option was chosen, the developer would then build 51 market rate units and 9 Inclusionary units on the project site.

Three Options Have Been Available to Meet Inclusionary Requirements

2. Provision of Inclusionary Units Off-Site
The off-site option has been used frequently in Monterey County. This option allows developer to build or provide Inclusionary units at a location other than the market rate units. These units can be provided within a 10 mile radius of the market rate units, in the same planning area as the market rate units or in the Redevelopment area nearest the market rate units.

In recent years, the off-site option has been interpreted to allow existing units to be substituted as Inclusionary units. For example, developers have been allowed to use existing, rental units as their Inclusionary contribution. In return, the developer agrees to rent the units to very low and low income households at affordable rents "in perpetuity." This agreement is considered a "greater contribution" and has therefore been allowed in the past.

The concept of "greater contribution" has been part of the off-site option for many years. However, the exact definition of what constitutes a "greater contribution" has never formally been addressed. Typically, "greater contribution" has been interpreted as providing more Inclusionary units than required or providing affordable units to very low or low income (rather than moderate income) households.

3. In-Lieu Fees
Instead of providing an actual housing unit, the third option allows a developer to pay a fee. This fee is collected by the County of Monterey and deposited in the County's Affordable Housing Fund.

When the Inclusionary Housing Program was first adopted in 1980, the fee was $1000 per Inclusionary unit required. The fee was revised in 1985 so that it was calculated at 15% of the median price of a home sold in the planning area of the market rate development. So, in 1985 if the median sales price in a planning area was $100,000, then the Inclusionary fee would be $15,000. In 1994, the fee calculation was revised to the method that is currently used. The fee is still based on 15% of the median sales price but is increased by the percentage difference between the lowest unincorporated planning area median single family home price and the medium single family home price in the unincorporated portion of the planning area in which the development is located. Developments of 6 units or less pay a proportion of this fee.

Listed below are examples of the current fee (Summer 2001) in two planning areas of the County.

Planning Area	Median Sales Price	Inclusionary Fee for 7 unit subdivision
Greater Salinas	$219,000	$ 47,021
Toro	$404,750	$160,610

As the examples above demonstrate, the Inclusionary fee will vary depending on which planning area that the market rate units are located. Developments of 7 or more units can choose to pay the fee or provide units on or off-site. Developments of 6 or less units typically pay a proportion of the fee, depending on the total number of units in their development.

Other Inclusionary Housing Component: Special Handling

In 1992, the Board of Supervisors approved the establishment of a procedure which would create incentives for developments that included at least 25% affordable units. This procedure was subsequently established as "Special Handling" and involves the provision of incentives such as financial assistance, fee waivers/reductions and density bonuses for affordable housing developments. The affordable units created under this procedure must comply with the affordability requirements of the Inclusionary Housing Ordinance and must be affordable to low or very low income households. Because these units are similar to Inclusionary units, they are considered to be a component of the Inclusionary Housing Program.

H. Summary of In-Lieu Fees Collected and Inclusionary Units Produced: 1980-2001

From 1980 to June 30, 2001, over $5.3 million dollars has been collected in the Inclusionary Housing In-Lieu Fee Fund. This amount consists primarily of in-lieu fees paid with a small additional amount due to interest paid on loans and/or funds on deposit. From 1986 (when the County assumed management of the program from the Housing Authority), the average annual in-lieu fees collected has been approximately $233,000 per year.

Over $5.3 million in fees have been collected since the adoption of the Inclusionary Housing Ordinance in 1980.

Summary of In-Lieu Fees Collected, 1980-2001

Responsible Party	Time Period	In-Lieu Fees Collected
Housing Authority of the County of Monterey	1980-85	$1,209,684
Planning and Building/Housing and Redevelopment Office	1986- June 30,2001	$4,111,092
	TOTAL	$5,320,776

Source: Housing and Redevelopment Office, County of Monterey 2001

Over the years, the In-Lieu fees have been allocated to affordable housing programs and developments throughout the County. Examples of affordable housing developments assisted through In-Lieu fees include group homes for special need households, transitional housing, emergency housing, farmworker housing and, permanent affordable units. Housing programs that have been assisted with In-Lieu fee funds include housing rehabilitation, first time homebuyers assistance, studies on homeless and on farmworkers and security deposit programs. It is estimated that from 1980-2001, approximately 940 units have been financially assisted with In-Lieu fee funds. It is important to note, however, that the majority of these units also received funding from other sources and the In-lieu fee assistance was just one source of funding assistance. Further, there has been no long-term monitoring of these units to determine whether they continue to be affordable. It is assumed that affordable developments assisted with other State or federal funds that were also assisted by the In-Lieu fee fund probably continue to be affordable. Examples of developments in this category would include El Estero Senior Housing in Monterey and Villa San Miguel in King City.

As of June 30, 2001, there was $1,300,000 in the In-Lieu fee fund. These monies are combined with other housing funds (Redevelopment housing set-aside funds, federal and state grants) into the Affordable Housing Fund. Monies are allocated from this fund in a coordinated procedure according to policies established by the Board of Supervisors and described further in the County's "Housing Policy and Allocation Procedures Manual," December, 2000. In 2001, there was a total of approximately $3 million in the Affordable Housing Fund from all funding sources for potential housing assistance to programs and affordable housing developments.

[illegible]

The total number of Inclusionary units approved from 1980-2001 is 525 units. This figure includes 69 units approved but not yet constructed as of December, 2001. Of the 525 total units, approximately 208 units are considered "Housing Authority" units in that they either were approved from 1980-85 or were developed by the Housing Authority during the 1980-2001 time period.

Inclusionary Units Developed/Approved, 1980-2001

	Very Low Income	Low Income	Moderate Income	TOTAL UNITS
Homeowner Units	1	70	225	296
Rental Units	57	107	65	229
TOTAL	58	177	290	525

Source: Housing and Redevelopment Office, County of Monterey 2002

The majority of the total 65 moderate income rental units are located in the Pacific Meadows development. Rental units developed after 1985 are all affordable only to very low and low income households and the affordability agreements are "in perpetuity."

As the table above illustrates, 56% of the Inclusionary Units (296 units) are homeowner units and the remaining 44% are rental units. In addition to the 525 units, there were 265 units approved/constructed in the Moro Cojo development in Castroville that qualified as "Special Handling." The 265 units include 90 rental units affordable to very low income households and 175 self-help homeowner units affordable to low-income households. There were also 5 homeowner units in the Chapman Subdivision (Chualar) that qualified as "Special Handling" units. If the 270 "Special Handling"

Single-Family Homeowner Units in Moro Cojo Development

units are added to the totals above, the total number of homeowner units produced would be 476 units (296 units + 180 units = 476 units) and rental units would account for 319 units (229 units + 90 units= 319 units), adding to a total of 795 units for Inclusionary units and Special Handling units.

Using data from the State of California, Department of Finance, there were 7,840 dwelling units added to the housing stock of unincorporated Monterey County between 1980-2000. The 795 total units of Inclusionary and Special Handling units represents approximately 10% of the total number of units added to the housing stock. If the units produced due to funding assistance from the In-Lieu Fee fund are included (940), then the percentage would increase to 22.1%.

Inclusionary/Affordable Units as a Percentage of All New Units

Type of Units	Total Number of Units	Percentage of New Housing Units, 1980-2000
Inclusionary Unit	525	6.7%
Special Handling	270	3.4%
Units Receiving Financial Assistance from In-Lieu Fees	940	12%
TOTAL	1,735	22.1%

Source: Housing and Redevelopment Office, County of Monterey 2002

INCLUSIONARY HOUSING: ISSUES AND RECOMMENDATIONS

A. Homeowner Component

The County's Inclusionary Housing Program has produced 296 homeowner units scattered throughout the County and 180 homeowner units generated through the "Special Handling" program. In addition to scattered-site units, there are some developments where there are substantial numbers of Inclusionary homeowner units including Oak Tree Views (42 units), Pasadera (26 homeowner units), Las Palmas (66 units) and Moro Cojo (175 units).

Current restrictions regarding homeowner units include:

1. Majority of homeowner units are restricted to households of moderate income-- incomes of 120% or less of median income.
2. Resale controls currently are for 30 year periods--renewed each time the house is sold for another 30 year period.
3. Resale price of the unit is controlled and increases in price are tied to the changes in median income.

Compliance Status of Homeowner Units

One of the more significant issues in recent years is the lack of adequate monitoring of homeowner units. There have been instances where Inclusionary homeowner units have sold and the resale restrictions were not complied with, due to various reasons. In some instances, the resale restriction was not identified by the title company or real estate agent. In other cases, it is not clear whether a resale restriction was adequately recorded.

As part of the 2001 evaluation process, the County initiated a monitoring process in order to update the data base. Of the 296 Inclusionary Homeowner units, 58 units were developed during 1980-85. The Housing Authority of Monterey County has reported that they cannot locate legal recorded documents for those properties. At the time that this report was being written, the Housing Authority was trying to verify how many of the 58 units could still be considered "Inclusionary" units. Because the resale restrictions during 1980-85 only required sellers to repay funds (and not to sell it at an affordable price to another income-qualified household), it is very likely that a majority of the 58 units can no longer be considered "Inclusionary" units.

The staff of the County's Housing and Redevelopment Office have initiated contact with approximately 75% of the remaining homeownership units.

Listed below are issues and recommendations that were identified during the 2001 evaluation process of the Inclusionary Housing Ordinance and program. There was considerable public discussion during this process, as described earlier in this report (see Page 9). The issues and recommendations are divided into two groups: those issues/recommendations that had general consensus and those issues/recommendations that generated significant discussion and differing solutions.

Significant Issues and Recommendations:

Issues With Consensus: 1. Calculation of Sales Price and Affordability Term

1. Calculation of Sales Price

In the past, the criteria used to determine original sales price has not been consistent and varied by market conditions at the time. The County has been using a housing cost ratio of 35% of 100% of median income for a household of 4 persons. PITI (principal, interest, taxes and insurance) is included in this calculation and, recently, homeowner association fees were also included. The 35% ratio is higher than other communities use for housing costs and, should probably be reduced down to 30% if it is to include only housing related costs. Also, the formula assumes a 10% down payment with a 6-7% loan interest rate. It is recommended that the formula be changed to a 5% down payment with a standard 8% interest rate. This change would allow for more fluctuations in the mortgage interest rate and would provide more flexibility for buyers who might find it difficult to accumulate 10% down payment. *(Page 43 in the Appendix includes a chart demonstrating existing sales price calculations.)*

Currently, the sales price is based on a 4-person median income household, regardless of size of unit. There was discussion on whether to "tie" the household size to the bedroom size of the unit. The recommended change is to calculate household income based on the bedroom size of the unit, using a formula of 1 person per bedroom plus 1 person. Staff early in the development process should prepare the calculation of sales prices. The developer should have no ability to change the sales price, without written prior authorization from the County.

Further, the affordability term of the resale restrictions should be changed from 30 years to "in perpetuity" for all new Inclusionary Units.

Recommendation for Sales Price Calculation/Affordability Term

1. Revise and consistently use the following calculation:
    a. Use 1 person per bedroom plus 1 person for household income
    b. Calculate sales price based on:
        - i. Households Pay No More than 30% of Income for all Housing Costs (PITI and Homeowner Association Dues)
        - ii. Assume a 5% Downpayment
        - iii. Mortgage Terms assumed to be 8% Interest, 30 year Term
    c. Developer cannot change sales price without prior authorization from the County.
2. Revise affordability term of resale restrictions to "in perpetuity" for all new Inclusionary Units.

2. Value of Home Improvements

Currently, a maximum of 5% of the original sales price can be credited for home improvements. There were several comments from existing Inclusionary homeowners regarding improvements to the property. First, the County needs to be certain that it doesn't create a "disincentive" for the property owner to improve or maintain their property by not considering improvements in calculation of resale value. However, if the value of all improvements was allowed to be added to the resale value, the home might no longer be affordable to a low-moderate income household. The type of improvements is also a consideration. Bedroom additions, for example, are often necessary as a family expands and the addition could definitely be considered a valuable improvement. The new resale value could then be based on number of bedrooms and, consequently, a larger household income. Other type of improvements (landscaping, hot tubs, upgrading of existing materials, etc.) are not of the same significance as bedroom additions.

It is recommended then that the County increase the percentage weight of improvement to 10% of original purchase price. The philosophy underlying this change is that it is generally accepted that, in maintaining a property, an owner will make certain improvements to it and that a 10% figure appears to be sufficient credit for those improvements. The County will no longer require proof of improvements – the nature and type of improvements will be left to the discretion of the homeowner. Instead, a "blanket" 10% credit will be provided if, at the time of the refinancing/resale, the unit meets a basic maintenance level.

In addition to the 10% credit for home improvements, it is recommended that bedroom addition costs also be included in the value of home improvements. The value of a bedroom addition will be based on the difference in household size allowed to occupy the unit with the bedroom addition. *(See Page 44 of the Appendix for an example of a calculation of a bedroom addition.)*

One additional item is the issue of housing units that are not maintained and are then resold with deficiencies. Several communities report that they inspect the unit prior to resale and actually deduct the costs of repair to the unit from the resale value. Monterey County has recently begun to implement this strategy and it is recommended that it continue to enforce this policy.

Recommendation for Home Improvement Value

Revise home improvement value for refinancing/resale to include:

a. Automatic 10% credit for home improvement.
b. Deduction from 10% credit for any property deficiencies.
c. Calculate value of bedroom additions using formula based on new number of bedrooms and revised household size income.
d. Value of bedroom additions is in addition to 10% credit.

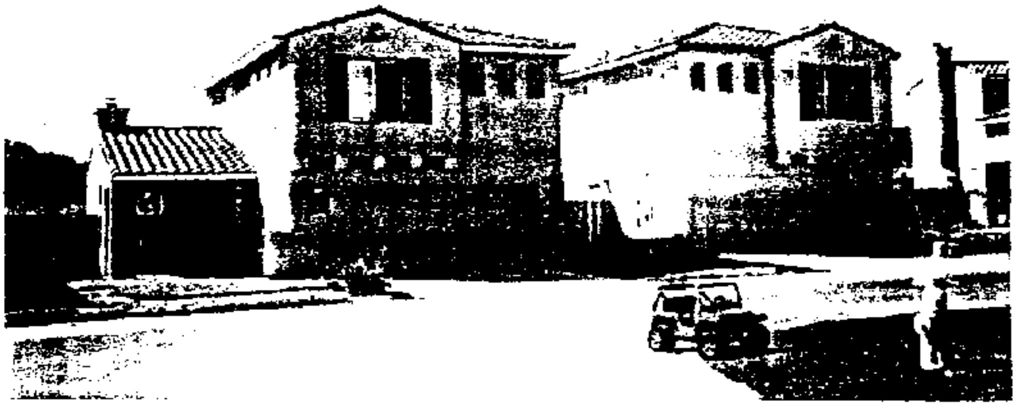
3. Calculation of Resale Value

There was significant public comment, especially from existing Inclusionary homeowners, that the calculation of resale value should be changed. Specifically, many homeowners wanted to be able to sell their homes during the affordability period without resale price restrictions.

Monterey County calculates the resale value of an Inclusionary housing unit based on original sales price plus the percentage change in median income since the original sales date. The current method of calculating resale price by "pegging it" to the change in median income accurately reflects the intent of the program. In specific, as median income changes then the resale value changes in the same proportion so that the moderate-income household can still afford to purchase the unit. While some communities tie the resale value increase to the change in Consumer Price Index (CPI), there often are years when the CPI increases significantly but incomes do not. Therefore, the CPI indicator might inflate the resale value above the level that would still be affordable to moderate-income households. Another method used by some communities, allowing the property owners to resale the unit at market value, results in an affordable unit being lost permanently from the housing stock. Even if some of the "housing subsidy" is recaptured, it is usually not sufficient to replace the lost affordable unit.

It is very important to remember that the underlying basis for the Inclusionary Ordinance is that, because the cost of housing has become so prohibitive and expensive, low and moderate-income households are being precluded from becoming homeowners. In particular, these households often include valuable members of the community's work force: teachers, public safety employees, nurses and medical support staff, etc. The goal of the Inclusionary Ordinance is to provide long-term affordable units and homeownership benefits (mortgage tax interest write-off, manageable housing payments, pride of homeownership, etc.) to ensure that these households can stay in Monterey County. The goal of the program <u>is not</u> to provide equity build-up in such a manner that the unit will no longer be affordable on resale to another moderate-income household. In fact, the Inclusionary Ordinance specifically states that "resale control through deed restrictions…is a necessary consideration in order to prevent undermining of the credibility of the whole program, not so much because of the windfall to those who sell an Inclusionary unit, but because of the loss of the unit itself as an affordable unit." (18.40.020 E)

In any discussion of resale value, there is always the dilemma of recognizing the need to retain affordable units for the longest feasible time as compared to allowing build up of equity in the unit for the owner's use. It is recommended that Monterey County continue to recognize the impor-



Inclusionary Homeowner Units in Pasadera Development

tance of preserving the stock of affordable units and ensuring that they remain affordable for the longest feasible time.

Recommendation for Resale Value Calculation for Refinancing/Resale

Retain the current calculation formula:

a. Use original sales price as base

b. Apply to base the percentage change in median income (as calculated by HUD for Monterey County households) from original sales date to refinancing/resale date, add this amount to original sales price base

However, revise calculation to also include:

c. Value of Home Improvements/Bedroom Additions

The resultant value can then be used as the resale value as long as the unit will still be affordable to a household with a household size appropriate for the unit.

4. Refinancing and Second Deed of Trusts

After purchasing an Inclusionary unit, homeowners may want to either refinance their existing first mortgage or encumber a second mortgage on the property. The current Ordinance is interpreted to require that refinancing only will be allowed if:

- The loan-to-resale value does not exceed 95%,
- Improvements calculated in the resale value cannot exceed 5% of the original purchase price,
- No cash out, and
- County's lien remains in second position.

There has been concern raised by several Inclusionary owners that they feel constrained by the current interpretation of the Ordinance. They indicated that they may want to refinance or encumber a second deed of trust in order to improve their property or utilize their equity in some other way.

It is recommended that the County revise the current interpretation to allow for cash to be taken out and to revise the loans-to-resale value to 100%.

Recommendation for Refinancing/Second Deed of Trusts

Adopt policies to allow refinancing and/or second deed of trusts provided:

- The loans-to-resale value does not exceed 100%,
- Improvements calculated in the resale value cannot exceed 10% of the original purchase price if property has been maintained plus the value of bedroom additions,
- Allow cash out, and
- County's lien remains in no less than third position.

5. Title Changes

Issues Generating Considerable Discussion: 5. Title Changes

Currently, a variety of different types of households may be listed on the title of the Inclusionary unit. Examples of the variety in title are a married couple and a single, unmarried person or two single people. In those situations, what if one owner dies? What if a married couple divorces? What if a single person buys the unit and several years later marries and wants to add the new spouse to the title? What if the owner dies and wants to leave the house to their child or children?

Monterey's current agreement allows transfer of title (but still retaining all deed restrictions on the property) to surviving joint tenants upon death of one of the owners and, also, transfer to a spouse as a result of a divorce. In addition, it currently allows adding a new spouse on the title. Therefore, most of these situations are already addressed by the existing agreement. The one issue that remains, however, is the question of inheritance. This issue "sparked" considerable public discussion during the evaluation of the Inclusionary Housing Ordinance.

At the current time, if the sole or surviving owner of the property dies, the property must be resold to another income-eligible household. The heirs of the deceased must qualify as an income-eligible household if they want to continue to occupy the property. The issue is whether an Inclusionary unit should be allowed to be inherited, especially by a child or children of the original owner (s). One approach is to continue the existing policy that the heirs would have to be income-eligible and occupy the property as their primary residence. It is now considered as a sale of property and the 30-year affordability period begins again. A second approach is to allow the heirs (only if they are children or step-children of the original owner) to inherit the property, regardless of their income, but they must occupy it as their primary residence. The deed restriction period would begin again as a new 30-year restricted period. In other words, if the heirs sell the property, they would have to sell it to an income-eligible household.

This issue has proven to be a very difficult and emotional issue for the public as well as the public bodies who discussed it (Housing Advisory Committee and Planning Commission). Staff's recommendation is that the program be revised to allow children or step-children to inherit the property, regardless of their income, but they must occupy it as their principal residence and a new 30 year resale period would begin. The Planning Commission indicated that it was important to remember that the primary purpose of the Inclusionary Ordinance is to provide homeownership units over a long-term period which are affordable to low and moderate income households. With that goal in mind, allowing non-income eligible children or step-children to inherit the property did not seem appropriate to some Planning Commission members. However, the Commission did acknowledge that there might be some transition time needed after the death of a parent and the sale of a property. Therefore, the Commission recommended that the Ordinance continue to require the sale of the property to an income-eligible household but that a 1 year "compassion" period be allowed between the settlement of the estate and the eventual sale of the property, if inherited by a non-income eligible child or step-child.

Change in Title
Staff Recommendation: Change existing policy to allow children or step-children to inherit property, regardless of income, with the conditions that they occupy property as their principal residence and that a new affordability period would begin. (For units with an original 30 year affordability period, the new affordability period would be 30 years. For units with an affordability period of "in perpetuity," the new affordability period would continue to be "in perpetuity.")

6. First Time Homebuyer Requirement

The Inclusionary Program currently does not restrict eligibility to First-Time Homebuyers. There have been instances where Monterey County Inclusionary applicants already owned a home, sold it (or rented it) and moved to an Inclusionary unit.

Most communities assume that, because of the income and asset limitations, the majority of Inclusionary applicants will probably be first-time homebuyers. In recent months, Monterey County has revised its asset limitations—it is expected that this policy revision will result in fewer instances of existing homeowners purchasing an Inclusionary unit. Further, the Housing Advisory Committee especially was concerned that, by requiring applicants to be first-time buyers, existing Inclusionary owners who wanted to buy a larger size unit would be prevented from doing so. Therefore, it is recommended that the County retain its currently policy and not require Inclusionary applicants for homeowner units to be First-time Buyers.

Recommendation for First-Time Homebuyers

Continue to implement existing policy and do not require applicants to be First-Time Homebuyer.

B. Rental Unit Component

Since 1980, there have been 319 rental units produced as a result of the Inclusionary Housing Ordinance or Special Handling procedures. This figure includes 229 Inclusionary units and 90 Special Handling units at the Moro Cojo development.

Current restrictions regarding Inclusionary rental units include:

1. Units must be affordable to either very low income (households at or below 50% of median income) or low income (households at or below 80% of median income)
2. Affordability is defined as rents that are at 30% of 50% of median income (units for very low income households) or 30% of 70% (units for low income households)
3. Rents are to be restricted to affordable rents and monitored as such "in perpetuity."

Compliance Status of Rental Units

During the Housing Authority's administration of the program (1980-85), there were 150 rental units developed. Included in this total is the 50-unit Lakeview Tower development in Salinas. Lakeview Tower has been monitored by the Housing Authority and has been determined to be in compliance. One other large rental development that is included in the Inclusionary rental unit count is the 40-unit Vista de la Terraza, currently managed by CHISPA. The Housing Authority has verified with CHISPA that the units are all occupied by very low or low income households. The Housing Authority is still (March 2002) trying to determine the exact status of the remaining 60 rental units, although they estimate that several have been in the Section 8 program since they were produced and are, therefore, probably still affordable.

Staff at the Housing and Redevelopment Office have initiated monitoring efforts for the remaining rental units. There have been some issues that

Example of Inclusionary Rental Units in Castroville

have been identified as a result of this monitoring including:

- units rented to households who are not income-eligible,
- rental property has been sold and affordability restrictions were not re-recorded at new sale, and
- some rental units are occupied by households too large for the unit.

RENTAL UNITS: Significant Issues and Recommendations:

7. Rental Unit Occupancy and Affordability Requirements

As described above, there have been some issues that have been identified during the monitoring of Inclusionary rental units. In specific, there needs to be more detailed language and requirements for the occupancy of the rental units. Regulatory agreements need to contain specific language and be recorded against the property.

Further, the Inclusionary Ordinance needs to be revised in order to be more consistent. Specifically, the Ordinance restricts occupancy to very low and low income households and defines low income as households at or below 80% of median income. Yet, the Ordinance also defines affordable rents as affordable to low income households at 30% of 70% of median monthly income. The Ordinance needs to consistently define low income at 80% and to change the affordability definition to 30% of 80%, not 70%.

Recommendation for Rental Unit Occupancy [illegible]

Revise policies to include:

Revision of Regulatory Agreements to include:

- specific language and enforcement procedures or sanctions for occupancy of rental units to very low and low income households,
- specific language that households shall rent units that are appropriate for their household size,
- require property owners to maintain property to meet basic health and safety and existing code standards, including Section 8 property standards, and
- record Regulatory Agreement to be effective "in perpetuity" and to be binding on all subsequent purchasers.

Issues Generating Considerable Discussion: 8. Use of Existing Units

8. Use of Existing Units to Satisfy Inclusionary Requirement

Although not specifically stated, the Inclusionary Ordinance has been interpreted to allow developers to substitute existing units for their off-site contribution. Off-site units can be used to meet the Inclusionary requirement if "a greater contribution" can be demonstrated. Usually this means that the units, if rentals, will be affordable to households at or below 50-70% of median income. Further, the County requires that the rental units have affordability restrictions imposed "in perpetuity."

Several members of the public and representatives of groups commented on this aspect of the program. Proponents argued that the existing procedure encouraged the rehabilitation of existing units in the housing stock and provided rental units at greater affordability levels. However, other comments included the statement that existing units do not really meet the intent of the Inclusionary Housing Ordinance, which was to provide affordable units in conjunction with new construction. Further, there is concern regarding the long-term property condition of existing units, as compared to the life-cycle of a newly constructed unit.

It is recommended that the County no longer allow existing units to be substituted for off-site development of Inclusionary Housing requirements. There is no substantial community benefit to be derived from allowing existing units to be substituted.

Recommendation for Use of Existing Units

Discontinue practice of allowing existing units to be substituted for off-site development of Inclusionary Housing requirement.

10. Monitoring and Compliance Procedures

As part of the 2001 evaluation process, staff from the Housing and Redevelopment Office initiated a comprehensive monitoring process. The monitoring effort was a high priority item. An Administrative Analyst staff person was devoted full-time to the monitoring effort for a six month period in the spring and summer of 2001. A substantial effort was made in creating a data base of Inclusionary units and regular updating of their status. However, this is a very time-consuming effort and, at the time this report was prepared, staff was continuing to develop a current data base of all Inclusionary units.

The monitoring effort needs to be continued in the future. Inclusionary housing units are an extremely valuable component of Monterey County's affordable housing stock. These units must be consistently monitored in order to ensure that units are not "lost" and converted to market rate units inadvertently.

Further, there needs to be considerable involvement by County Counsel or other legal professionals to define legally-acceptable compliance methods. These methods need to be defined in legal agreements with owners of Inclusionary units and, when required, enforcement must occur.

Recommendation for Monitoring and Compliance Procedures

Continue monitoring of Inclusionary Units and, with legal counsel, develop adequate compliance procedures.

Issues With Consensus: *11. Implementation Tools*

11. Improve Implementation Tools

A review of current resale agreements and legal documents indicate that there needs to be some revision of the documents. In specific, the current resale agreement is very difficult to understand and needs to be re-written to make it more customer-friendly and readable. Further, it may be necessary to require additional legal documents to be recorded against a property to prevent properties from being re-sold without proper notice to the County. In specific, a "Notice of Default" and non-monetary "Deed of Trust" need to also be recorded.

Public comment on this issue included a recommendation that all documents be available in English and Spanish for potential applicants. Further, it was recommended that the County consider on-going education of Inclusionary recipients in regard to their responsibilities and maintenance of property standards.

Recommendation for Implementation Tools

In coordination with legal counsel, revise Inclusionary agreements and documents to ensure that they are readable and "customer-friendly." Provide materials in both English and Spanish and consider providing on-going education to Inclusionary recipients.

12. Marketing and Selection Procedures

A significant issue identified from both public comments and a review of existing procedures was the need to define marketing and selection procedures. There should be enhanced clarity in the marketing procedure and eventual selection of Inclusionary recipients. The new marketing/selection procedures should include:

1. County staff responsible for marketing of program, including advertising for availability of units.
2. County staff conducts lottery and establishes a priority list based on written criteria (i.e. households who live or work in Monterey County).
3. County staff maintains and updates list on a yearly basis. List is used for both new Inclusionary units as well as turn-over of existing homeowner and rental units.
4. Housing Authority will continue to qualify potential applicants for income eligibility.
5. County staff will refer eligible applicants to developer who will coordinate eventual transfer of ownership to qualified applicants.

In reviewing this issue, members of the Planning Commission supported the priority for households who live or work in Monterey County and, in addition, suggested that there also be consideration given to household who have jobs in close proximity to the proposed Inclusionary unit. One of the planning objectives for the County is to try to balance jobs and housing and it may be appropriate to give additional priority to households with jobs near the proposed unit. Further, the marketing plan should allow some flexibility for developers to propose alternative marketing strategies, especially in regard to employee housing.

Recommendation for Marketing/Selection Procedures

Develop a written marketing and selection procedure for the Inclusionary Housing Program. Include policies that encourage job/housing balance and priority to households that live or work in Monterey County.

13. Special Handling Procedures

In 1992, the County initiated a "Special Handling" program for affordable units. Although not tied directly to the Inclusionary Housing Ordinance, this program compliments the Inclusionary Housing Ordinance by encouraging a higher percentage of affordable units. The program applies to developments of 7 or more units which provide 25% or more affordable units. Incentives included as part of the program include fee reductions/waivers, priority processing, financial assistance and density bonuses.

Special Handling Program was applied to Moro Cojo development, including 175 self-help homeownership units.

The requirements for the affordable units are more stringent than the Inclusionary Ordinance in that "for-sale" units must be affordable to low income households and "rental units" must be affordable to very low income households. The procedures also state that all affordable units must be "...rendered permanently affordable by deed restriction in the manner prescribed to Inclusionary units by the Inclusionary Housing Ordinance." In total, there have been 8 developments processed under the Special Handling procedures.

In reviewing the Special Handling program, it has become evident that one of the goals of this program should be assistance in expediting applications and permits. Therefore, it is recommended that the Program be revised to "Entitlement and Permit Processing Coordination." Development applications that qualify for this program would be assigned to a specific staff member from the Housing and Redevelopment Office who would be responsible for monitoring and coordinating the development process as efficiently as possible. Further, there would be aggressive marketing of the program to the development community and County staff.

Recommendation for Entitlement and Permit Processing Coordination

For development applications with at least 25% affordable housing, assign staff person from the Housing and Redevelopment Office to coordinate and expedite development processing.

Special Handling Program was applied to Moro Cojo development, including 175 self-help homeownership units.

The requirements for the affordable units are more stringent than the Inclusionary Ordinance in that "for-sale" units must be affordable to low income households and "rental units" must be affordable to very low income households. The procedures also state that all affordable units must be "...rendered permanently affordable by deed restriction in the manner prescribed to Inclusionary units by the Inclusionary Housing Ordinance." In total, there have been 8 developments processed under the Special Handling procedures.

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Recommendation for Entitlement and Permit Processing Coordination

For development applications with at least 25% affordable housing, assign staff person from the Housing and Redevelopment Office to coordinate and expedite development processing.

14. Exemptions for Owner-Occupied Units/Lots

Currently, if a developer/owner indicates that they will be occupying one of the units in a proposed development as an owner-occupant, that unit is exempt from Inclusionary Housing requirements. There have been several instances of mis-use of this policy. For example, owners have claimed owner-occupied exemptions on more than one development during the same period of time. It is recommended that the County limit the number of owner-occupied exemptions to one per development and, further, one exemption per developer for every 10-year period. The Planning Commission further recommended that an owner-occupied exemption only be allowed for developments of 4 or less units.

Recommendation for Owner-Occupied Exemptions

Revise policies to allow owner-occupied exemption for developments of 4 units or less only. Alow only one owner-occupied unit exemption per development. Further, allow only one exemption per developer for every 10-year period.

15. Timing and Design of Inclusionary Units

The County currently has no definitive written policies regarding the design of Inclusionary units. Specifically, there are no written policies regarding the exterior appearance of Inclusionary units. Further, there should be more specific policies in terms of when Inclusionary units are built in relation to the construction of the market rate unit. Examples of issues that should be addressed then are exterior appearance, size of units, clustering or scattering of units, timing of provision of Inclusionary units, etc.

Issues Generating Considerable Discussion: 15. Timing and Design of Inclusionary Units

The issue of clustering or scattering units is dependent on several variables. The first is the size of the project. A project requiring only two Inclusionary units is different than a project generating 10 Inclusionary units. The second variable is the type of project. Again, the type and actual costs of developing a large lot, single-family development are different that the costs and variables associated with a multi-family development of town homes or apartments. Therefore, it is recommended that the option of clustering or scattering be available and determined on a project-by-project basis.

It is recommended that the County include written guidelines in its administrative procedures that specify that the exterior appearance of the Inclusionary units shall be similar to the market rate units. Further, the Inclusionary units shall be similar in number of bedrooms to the market rate units although square footages can differ between the units.

Regarding timing, the issue involves the stage of the development approval process at which time the developer commits to an Inclusionary requirement and option selection. Currently, the Inclusionary Requirement does not need to be identified until the Final Map stage. In order to provide full public disclosure of the Inclusionary requirement, it is recommended that a written agreement be developed at a much earlier stage, the Tentative Map stage. The written agreement should include the number of Inclusionary Units to be provided and the anticipated household income levels of affordability. Further, the agreement should contain the requirement that "Certificates of Occupancy" must be issued for the Inclusionary units before or concurrently with the market rate units. It was initially suggested during the public comments on this item that the agreement be a "condition of approval" at the Tentative Map stage. However, there was also some concern that, by requiring it as a condition of approval, there was little flexibility provided should there be major or unforeseen changes between the Tentative Map and Final Map stages. Therefore, it is recommended that the requirement be finalized as a written agreement at the Tentative Map stage, rather than as a "condition of approval."

Recommendation for Design and Timing of Inclusionary Units

Revise Ordinance to include:

- Require written agreement at time of Tentative Map to include type and number of Inclusionary Units to be provided,
- Inclusionary units must be produced either prior to development of market rate units or concurrent with market rate development,
- Exterior appearance of on-site units shall be similar to other units in development,
- Inclusionary units shall be similar in number of bedrooms as market rate units and square footage should be appropriate for bedroom size, and
- Continue to allow flexibility in determining whether Inclusionary units should be clustered or scattered

16. Retain 3 Options to Fulfill Inclusionary Requirement

The Inclusionary Housing Ordinance has allowed developers to fulfill their Inclusionary Housing requirements by choosing one or a combination of 3 different options:

1. provision of Inclusionary units on-site,
2. provision of Inclusionary units off-site, and
3. payment of an in-lieu fee.

The availability of 3 options provides flexibility for both the County and the developer in delivering affordable units. Each development proposal is different and the opportunity to have a variety of different options available helps to ensure that the maximum benefit will be achieved.

However, there is also concern that payment of in-lieu fees does not necessarily generate a unit similar to an Inclusionary Housing unit. In-lieu fees have been used to help with development and financing costs of affordable units in the County but there is not necessarily a one-to-one correlation between the amount of in-lieu fees paid and the development of a similar number of affordable units. Therefore, it is recommended that the payment of in-lieu fees for developments of 7 or more units only be allowed as a "last-resort," that is, if the developer demonstrates that provision of Inclusionary units either on or off-site is infeasible. Payment of in-lieu fees would still be allowed for developments of 6 or less units.

There were several public comments in regard to the provision allowing off-site units. The real estate and development community generally favored allowing units off-site because it provided more flexibility. However, other commenters noted that off-site units were being developed in planning areas far from the market units. It could be construed, they argued, that the Inclusionary units were being concentrated in areas that already had substantial numbers of low and moderate income households. Isn't the goal of an "Inclusionary Program," they argued, to "include" both affordable and market-rate units in the same development?

In order to more accurately reflect the objective of the Inclusionary Housing Ordinance, it is recommended that off-site units be allowed only if 1) the off-site units are located within a 10-mile radius of the market rate units, and 2) there is demonstration that a "greater contribution" is being produced by the off-site units. "Greater contribution" will include requirement that rental units must be affordable to very low-income households and ownership units affordable to low income households. Further, "greater contribution" shall also include that the number of units produced off-site will be greater than the number of units required on-site.

Recommendation for Retaining 3 Options

Revise Ordinance to include:

- On-site: Continue on-site option,
- Off-site: Allow off-site development of new units (no existing units allowed--see Issue #8) only if off-site units are located within a 10-mile radius and if there is a "greater contribution" of:
  1. rental units are affordable to very low income households and owner units are affordable to low income households, <u>and</u>
  2. more units are created off-site than would have been required for on-site development.
- In-Lieu Fees: Fees allowed for developments of 6 or less units. No in-lieu fees allowed for developments of 7 or more units unless developer can conclusively demonstrate that provision of units is infeasible because of specific characteristics of the property, including lack of infrastructure and limited access to services.

17. In-Lieu Fee Calculation

In-lieu fees have been allowed in Monterey County's Inclusionary Program since the inception of the program. In fact, in 1980, the in-lieu fee was only $1,000 per unit. The Ordinance has been revised several times since then with the most recent revision in 2000. There is concern that the fees currently charged are not sufficient and should be increased.

Currently, the methodology used to determine the fee for projects of 7 or more units/lots is:
"Fifteen percent (15%) of the median sales price of a single family home in the unincorporated portion of the Planning Area in which the new residential development is located increased by the percentage difference between the lowest unincorporated planning area median single family home sales price and the median single family home sales price in the unincorporated portion of the Planning Area in which the new residential development is located." A proportional fraction of the in-lieu fee is charged for projects of 6 units/lots or less.

Below are examples of the current fees charged:

Planning Area	Median Sales Price	In-lieu Fee (Fee in a project of 7 or more units/lots)
Greater Salinas	$ 219,000	$47,021
Toro	$ 404,750	$160,610

Originally, the concept of the in-lieu fee was that, for every 7 units, the fee would equal the cost of providing an affordable unit similar to the market rate units/lots provided. However, as the examples above demonstrate, the fees currently paid are very low and do not reflect the actual subsidy cost of providing an affordable unit. The fee is based on 15% of the sales price of a home, adjusted slightly for difference between lowest and median priced homes. However, because the fee is based on only 15% of the price, rather than a 100% factor, the fee only reflects a portion of the actual cost of providing a housing unit. For example, in South County, because there is no differential between the lowest and median priced home, the $22,950 fee is exactly 15% of the median sales price of $153,000. The 15% figure is only representative of a fraction of the actual cost of producing a unit. The fee should be based on more realistic and higher percentage amounts. Further, the fee as currently calculated does not take into account cost of new construction (land costs, constructions costs, etc.) because it is based on median sales prices of homes already constructed (including existing units and new construction).

The fee should be based on the difference between the market cost of an average unit/lot in the development and the cost of providing a unit/lot affordable to a household earning 80% of median income (i.e. the subsidy amount). There would then be no need to calculate fees by planning areas because the market cost of the average unit will reflect the market costs in that area. For projects of 6 or less units/lots, the fee would be calculated on a proportionate share of the in-lieu fee.

As an example of how this revised fee calculation would apply is as follows:

Assumptions:	$400,000	Sales Price of Market-rate Unit
	<u>$116,000</u>	House Price Affordable to a 4-person household at 80% of median income, 30 year term at 8% interest and limiting PITI to no more than 30% of household income
	$284,000	In Lieu Fee for 7 unit/lot project

The $400,000 sales price is based on the average sales price of a unit/lot in the market rate development that is triggering the Inclusionary Housing requirement. The in-lieu fee therefore will vary depending on the sale prices of the proposed development.

There has been some concern noted that, since a written agreement is recommended to be developed by the Tentative Map stage (see Issue #15), the estimated sales price at the Tentative Map stage might change by the time the development is actually built. Therefore, it is recommended that a policy be included with the revised in-lieu fee calculation that the in-lieu fee calculation at the time of the Tentative Map is an estimate only and is subject to revision and verification at the time of Final Map recordation.

One final issue regarding In-Lieu fees is whether the fee should be assessed on existing or remainder lots. For example, a developer applies to subdivide an existing lot into 3 lots and the question has been asked whether the in-lieu fee applies to 2 or 3 lots. Staff has interpreted the Ordinance in the past to require the fee to be assessed on all 3 lots. It is recommended that the County formalize this practice into a written policy that specifies that all lots in projects of 6 or less units shall be assessed an in-lieu fee.

Recommendation for In-Lieu Fee Calculation

Revise Ordinance to include:

- Revised calculation of in-lieu fee using average sales price of market rate unit less price affordable to a 4-person household. *(See example of calculation above).*
- For projects of 6 or less units, the fee would be assessed on all lots and would be based on a proportion of in-lieu fee. For example, a 3 unit development would be 42% of in-lieu fee (3/7 of the fee).
- Include stipulation that fee required at Tentative Map stage is an estimate only and is subject to recalculation at time of Final Map recordation.

18. Case by Case Exceptions

Provide language in Inclusionary Housing Ordinance to allow case-by-case exceptions for developments with other governmental financing that may conflict with Inclusionary requirements.

Listed below are the 18 issues and recommendations as discussed on the previous pages. Most of these recommendations need to be addressed through revisions to the existing Inclusionary Housing Ordinance. However, it is suggested that, in order to simplify the actual Ordinance as much as possible, that specific procedures or calculations do not have to be described in the Ordinance itself but rather can be included in detail in the Inclusionary Housing Manual.

Issue #	Recommendation(s)	Include in Revisions to Inclusionary Housing Ordinance?	Include in Inclusionary Housing Manual?
1	Revise sales price calculations and affordability term	Yes, but specific underwriting criteria only needs to be in Inclusionary Manual	Yes
2	Revise home improvement calculations	Yes, but specific criteria only needs to be in Manual	Yes
3	Retain current resale calculation but amend to include value of home improvements and bedroom additions	Yes	Yes
4	Allow second deeds of trust and refinancing	Yes	Yes
5	Title: Inheritance of Property	Yes	Yes
6	First Time Homebuyers: Continue existing policy	No	Yes
7	Rental Unit Occupancy and Affordability	Yes, but specific criteria only needs to be in Manual	Yes
8	Do not allow existing units to be used as off- site requirement	Yes	Yes
9	Develop Inclusionary Housing Manual	Yes, refer to Manual in Ordinance and specify that Manual contains all day-to-day procedures and can be revised if necessary	N.A.
10	Monitoring and Compliance	Yes, but specific monitoring procedures to be included in Manual	Yes
11	Improve Implementation Tools	No	Yes
12	Develop Marketing and Selection Procedures	Yes, but specific procedures to be included in Manual	Yes
13	Entitlement and Permit Processing Coordination	Yes	Yes
14	Revise owner-occupied exemptions	Yes	Yes
15	Timing and Design of Inclusionary Units	Yes, but specific procedures to be included in Manual	Yes
16	Prioritize 3 Inclusionary Options	Yes	Yes
17	Revise In-Lieu Fees	Yes	Yes
18	Case-by-Case Exception to Ordinance	Yes	Yes

1. Reference Materials

2. Income and Asset Definitions for Inclusionary Program

3. Rent Level Determinations

4. Sales Prices for Inclusionary Program (Current)

5. Value of Bedroom Additions for Inclusionary Program
   (Including Refinancing/Resale Calculation)

6. Summary of Inclusionary Housing Survey,
   Summer 2001

7. Monitoring Procedures for Housing Programs as
   Implemented by Housing and Redevelopment
   Office

I. Reference Materials

"Creating Affordable Communities: Inclusionary Housing Programs in California" California Coalition for Rural Housing Project, November 1994

"Inclusionary Housing in California", *Journal of the American Planning Association*, Spring, 1998

County of Monterey, "Housing Policy and Allocation Procedures Manual," December 12, 2000

County of Monterey, "Housing Element Technical Document," Draft December 2001

2. Income and Asset Definitions
County of Monterey Inclusionary Housing Program

The following definitions shall be used in determining applicant eligibility for the County's Inclusionary Housing Program. To be eligible for the program, rental applicants must meet the income limitations and home-owner applicants must meet both the income and the asset limitations.

Income (For All Applicants)

A. Maximum Income Limitation
Households occupying inclusionary units shall have incomes that are very low, lower and moderate-income, as specified by the contractual agreement for the residential development in which they are located. The definition of very low, lower and moderate-income shall be the same as provided by HUD and the State of California annually for the Monterey County area.

B. Definition of Income
The definition of income shall be the same as the federal definition found in 24 CFR Part 5 (commonly known as the "Section 8" definition). As specified in 24 CFR Part 5, the income derived from assets shall be included in the income calculation. *The only exception to this is when a homeowner applicant is using any of their assets to pay for down payment or closing costs to purchase the inclusionary unit. In that case, the potential "income" from those assets shall not be calculated.* The value of the asset itself, however, is still counted under the asset limitation test below.

Assets (For Homeowner Applicants)

A. Maximum Asset Limitation
The maximum asset limitation is the total of the following:

a) 30% of the purchase price
b) 25% of current median income
c) 6 months of living expenses based on household size

B. Definition of Assets

Assets used to determine the maximum asset limitation allowed are defined in the following table. Any asset disposed of within 12 months prior to applying for an inclusionary unit shall also be included in the calculation of maximum assets.

Assets to be Included in Maximum Asset Limitation	Assets to be Excluded in Maximum Asset Limitation
1. Cash, including cash held in savings accounts, checking accounts, safe deposit boxes, and escrow accounts. For savings accounts, use the current balance. For checking accounts, use the average 12 month balance.	1. Necessary personal property except as noted in #6 of the "included" assets.
2. Cash value of trusts available to the applicant.	2. The current value of individual retirement and Keogh accounts. (Any income currently being received from such accounts however shall be considered as "income" in the income calculations.)
3. Equity in real estate or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs that would be incurred in selling the unit.	3. Cash value of life insurance policies available to the individual before death.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.	4. Assets that are part of an active business. "Business" does not include rental property that is held as an investment and not a main occupation.
5. Lump sum or one-time receipts, such as inheritances, gifts, lottery winnings, insurance settlements, etc.	
6. Personal property held as an investment such as gems, jewelry, coin collections, etc.	
7. Mortgages or deeds of trusts held by the applicant.	

3. Rent Level Determinations

Inclusionary Rental Units:

-The rent for Inclusionary Rental Units is specified through the Inclusionary Housing Ordinance. The Ordinance states that the rent shall be at levels affordable to very low or low-income households, as adjusted by household size. Therefore, the rents charged for an Inclusionary Rental Unit are:

Very Low Income: 30% of 50% of median income (either the Countywide median income or the Planning Area median income, whichever is less)

Low Income: 30% of 70% of median income (either the Countywide median income or the Planning Area median income, whichever is less)

Or

Section 8 rent, if the tenant has Section 8 rental assistance.

Please note: Recommendation #7 of "How Did We Do? An Evaluation of the Inclusionary Housing Program" specifies that the low income affordability calculation be changed from 30% of 70% to 30% of 80% to make it consistent with other affordability policies.

Inclusionary Homeowner Units that are Rented:

There is a provision in the Inclusionary Housing Program that allows homeowners to rent their housing units. This is allowed under hardship situations and with the County's prior approval. There have been no specific written guidelines in regard to the rent level charged for those units.

It is not the intent of the Inclusionary Housing Program to encourage rental of homeowner units. Therefore, it is recommended that the following guidelines be used:

1. Rental of a homeowner unit will only be approved by the County in cases of extreme hardship as documented in a written request by the homeowner.
2. The County will approve a rental of a homeowner unit for a maximum of one year, which can be renewed if the County determines that the hardship exists.
3. Upon approval by the County, the homeowner will agree to execute a 12-month lease with the selected tenant. The lease will specify that occupancy will only be for a 12-month period. In addition, the unit must pass a housing inspection, prior to conversion to a rental unit.
4. The unit must be rented to a low-income household. (As defined in the Inclusionary Housing Ordinance, a household with an income at or below 80% of Countywide median income or median income of the Planning Area,

whichever is less.) The prospective tenant must be income-qualified by the Housing Authority.

5. The tenant's household size must be appropriate for the size of the unit so that there is no overcrowding.
6. County staff will calculate the rent to be charged and will inform the homeowner of the maximum rent allowed. Rent will be calculated as follows:

    a. The maximum rent allowed will be 30% of 70% of median income for a 4-person household, (using the Countywide median income or median income of the Planning Area, whichever is less.) *See comment above regarding change to 30% of 80%*

4. Sales Price Determination

The current Inclusionary Housing Ordinance provides for a calculation of sales price based on planning areas and household median incomes. The 2001 evaluation of the Inclusionary Housing Program is proposing a change in the determination of sales price. However, until that proposed change is formally approved, the current method of developing sales prices is still being utilized. The current method is described below.

The calculation of sales price is based on the following factors:

1. planning area in which the Inclusionary Housing development application is located,
2. median income for that planning area (current median household income for Monterey County, adjusted for differences in income from 1990 U.S. Census),
3. housing costs not to exceed 30% of median income, with adjustments for property insurance, taxes and homeowners association dues, and
4. assumption that the household will have a 10% downpayment, with an 8% interest mortgage at a 30 year term.

The chart on the following page provides an example of the current calculations of sales price for the 9 planning areas.

	Gr. Salinas	Central Salinas Valley	South County	Toro	Cachagua	Gr. Monterey Peninsula	Coast	Redev. Area	No. County
Median Income	$52,600	$52,600	$52,600	$52,600	$52,600	$52,600	$52,600	$52,600	$52,600
Income Adjust.	4.00%	14.00%	1.00%					26.00%	
	$2,104	$7,364	$526					$13,676	
Revised Income	$50,496	$45,236	$52,074	$52,600	$52,600	$52,600	$52,600	$38,924	$52,600
30% of Income Monthly	$1,262	$1,131	$1,302	$1,315	$1,315	$1,315	$1,315	$973	$1,315
Taxes / Insurance	$190	$185	$200	$200	$200	$200	$200	$150	$200
Homeowner Dues									
Mortgage Payment	$1,072	$946	$1,102	$1,115	$1,115	$1,115	$1,115	$823	$1,115
Loan Amount	$146,104	$128,869	$150,116	$151,907	$151,907	$151,907	$151,907	$112,139	$151,907
10% Down Payment	$16,234	$14,319	$16,680	$16,879	$16,879	$16,879	$16,879	$12,460	$16,879
Sales Price	$162,337	$143,188	$166,795	$168,786	$168,786	$168,786	$168,786	$124,599	$168,786

Existing (2001) Sales Price Calculation by Planning Area

5. Value of Bedroom Addition (Including Refinancing/Resale Calculation):

a) Originally, unit was a 3 bedroom, 2 bath single family unit.
b) Initial Sales Price was $150,000 in 1995
c) In 2001, a 4th bedroom was added
d) Value of Bedroom Addition calculated as follows:

The change from a 3 bedroom to a 4 bedroom unit would result in a change in household income determination from a 4 person household to a 5 person household. (Using the standard household size formula of 1 person per bedroom plus 1 person.) The difference in median income in 2001 between a 4 person and a 5 person household is $ 5,250.

An additional $5,250 per year in income could support approximately $17,000 in additional loan financing. (Assuming 30% of $5,250 is used for additional housing loan cost at 8% interest, 30 year amortization). Therefore, $17,000 additional could be added to refinancing/resale value for the extra bedroom addition. *Please note: this calculation was developed only to determine a value for purposes of the inclusionary program. The property owner would still need to secure their own refinancing or second deed of trust financing based on their income, credit history, equity in property, etc*

$150,000	Initial Sales Price
+ 24,150	16.1% change in median income, 1995-2001
+ 15,000	10% of initial sales price "credit" for improvements and/or maintenance
+ 17,000	bedroom addition allow.
$206,150	2001 Value

6. Summary of Inclusionary Housing Survey (Summer, 2001)

Background:

Monterey County adopted its Inclusionary Housing Program in 1980. During the past two decades, the program has been modified several times to respond to changing market conditions. Administration of the program was transferred from the Housing Authority of Monterey County to the County Planning Department and then, three years ago, to the Housing and Redevelopment Office. Due to all of these program changes and concerns raised by the public about the program's achievements, the County decided to undertake a comprehensive evaluation of the program. As part of that evaluation process, a survey was sent to approximately 40 communities who were believed to have an Inclusionary Housing program. Responses were received from 34 communities. The objective of the survey was to gather enough information in order to ascertain a general "state of the art" of inclusionary programs in California today. Attached to this narrative summary is a chart, which briefly describes the inclusionary program by community.

It is important to note that this survey is not considered to be a comprehensive survey of all California Inclusionary Housing programs. A recent article in the *Journal of the American Planning Association* ("Inclusionary Housing in California," Summer, 1998) indicates that there are over 75 communities in California with inclusionary programs. Further, the survey form used was only 3 pages in length and did not go into extensive detail regarding a community's program. Due to time and budget constraints, we were unable to undertake any follow-up phone calls when answers in the survey were ambiguous – therefore, we made some assumptions as we summarized the survey results. However, in spite of these limitations, the survey does provide some interesting information about the range of inclusionary programs in the State. Listed below are some of the more interesting highlights of the survey and Monterey County's experience in administering an Inclusionary Housing program.

Highlights of Survey

Program Policies

Mandatory or Voluntary?

The overwhelming majority of the responses indicated that their programs were mandatory. Only 2 communities indicated that the program was voluntary.

Threshold of Units Triggering Inclusionary Requirement:

This is one of the more important variables in designing an inclusionary program. Survey results indicated that there are several variations of this requirement, for example:

1. All new residential units are subject to inclusionary requirements. However, units in lower density developments are only subject to a fee and do not have to produce an actual inclusionary unit. For example, several communities have policies, which specify that developments of 5 or less units (or 7 or less units) will pay an inclusionary fee in lieu of developing a unit.
2. Another variation to #1 above is the same procedure but any individual single-family unit is exempt from the inclusionary requirement.
3. Some communities have policies in which the inclusionary requirement is not triggered unless it is a large development; for example, developments of 20 units or more.
4. Another variation is to only impose inclusionary requirements on multifamily developments.

In-Lieu Fees

In Monterey County, there has been considerable discussion regarding in-lieu fees. These fees have been included as an option in the program since its inception. In fact, over $5 million in in-lieu fees have been collected during the past two decades. However, some of the concerns that have been noted are whether the amount of in-lieu fees collected is sufficient and whether the use of those fees have resulted in a proportionate number of affordable units.

Results from the 2001 survey indicated that there are many different responses to this issue. Several communities do not allow in-lieu fees at all while others only allow in-lieu fees for smaller developments. Other communities, including Monterey County, allow developers to choose either in-lieu fees or producing an inclusionary unit. However, in Monterey County, we are proposing to increase the in-lieu fee to an amount that would be more representative of the costs of providing an affordable unit.

Inclusionary Units Developed On or Off-Site

Monterey County was interested in how other communities are addressing this issue because it has been one of the more significant discussion items during the evaluation of the program. Monterey County developers are allowed to produce units off-site (on a site other than the market rate development which triggered the inclusionary requirement) if they can demonstrate a "greater contribution" to the community by doing so. Usually this "greater contribution" means an increased level of affordability or a reduction in household income level eligibility. In recent years, the County has also allowed developers to substitute existing units off-site to meet their inclusionary requirement. These existing units are typically multi-family rental units that the developer purchases and agrees to rent in perpetuity to very low and low-income households. The County is currently evaluating the procedure of allowing existing units to be substituted for new units – there is concern that this procedure does not fulfill the intent of the Inclusionary Program.

The survey results are mixed regarding this issue. Some communities do not allow off-site units at all. Others allow off-site but with certain conditions. Several communities, similar to Monterey County, allow existing units to be used to fulfill the inclusionary requirement but the units have to meet certain conditions.

Inclusionary Percentages and Affordability Periods

In the 2001 survey, the percentage of units required to be affordable varied depending on factors such as the number of units in the development and the income levels of eligible households. The highest inclusionary percentage was 25% and the lowest was 3%. Affordability periods varied also – some communities have permanent affordability requirements ("in perpetuity"). Other communities vary their affordability requirements according to whether the unit is a homeownership unit or a rental unit.

PROGRAM ADMINISTRATIVE PROCEDURES

HOMEOWNERSHIP INCLUSIONARY UNITS:

Monterey County was especially interested in responses to administration of the homeowner aspect of the program. Because Monterey County has over 20 years of experience and an inventory of homeowner units, there were several issues that have surfaced in recent years.

- <u>First-Time Homeowners:</u> Monterey County is considering limiting the program to First Time Homebuyers. It is interesting to note that the majority of responses to the survey indicated that there was no limitation that a purchaser had to be a First-Time Homebuyer.
- <u>Income and Asset Limitations:</u> Similar to other communities in the survey, Monterey County restricts eligibility in the ownership program to households whose incomes are at or below 120% of median income. Some communities establish an even lower income limitation – for example, 100% or 80% of median income. Monterey County was using the Section 8 definition for income and asset limitations. However, while the Section 8 definition is appropriate for definition of income, we found it to be a problem when using the asset definitions in the Section 8 program. Because the Section 8 program is designed to assist rental households, the asset definitions are not appropriate for homeownership eligibility. Monterey County has now developed a separate asset definition.
- <u>Resale Price Calculations and Restrictions:</u> Like many other coastal California communities, Monterey County has experienced a dramatic increase in property values. Several inclusionary homeowners have expressed concern about the restricted value of their homes in comparison to the value of neighboring homes. In some cases the difference between the current market value of an existing inclusionary unit and the house next door to it is $500,000 or more. (For example, the resale value of a restricted inclusionary unit is $180,000 and the value of the unit next door is $700,000 for a similar unit). In Monterey County, resale value is calculated based on the percentage increase in median income and a certain value for home improvements. Some of the issues that we

7. Monitoring Procedures for Housing Programs as Implemented by Housing and Redevelopment Office

The following pages include a description of the monitoring procedures currently being implemented by the Housing and Redevelopment Office.

INCLUSIONARY PROGRAM
MONITORING PROCEDURES

RENTAL PROPERTIES

General Policies:

Rental projects developed under the INCLUSIONARY PROGRAM are monitored every two years to determine compliance with the terms of the Regulatory Agreement recorded against the property. The areas to be included in the monitoring process include tenant incomes and rents, payment of property taxes and hazard insurance.

An annual certification of ownership is required.

Procedures:

1. In general, the monitoring process will begin in February each year.

2. All Inclusionary rental units are entered into the monitoring database and a tracking spreadsheet is generated. The spreadsheet includes fields for correspondence, follow up and data documents required. Copies of the current spreadsheet, forms and sample letters for the monitoring review are included in Appendix A.

3. A Monitoring Review Form is initiated for each project.

4. Initial letters are mailed to property owners requesting completion of certifications regarding non-discrimination policies, names of tenants, rents charged and ownership status. The owner is instructed to give the tenants a form entitled Tenant Income Verification for completion. These forms are to be returned along with documentation of payment of taxes and insurance along with copies of current leases. If the tenant fails to complete the form, a certified letter requesting the document will be issued by the Housing and Redevelopment Office.

5. Second Notices are sent by certified mail if the property owner does not respond within fourteen business days.

6. Correspondence will be sent by process server, delivery service or hand delivered to the address by a staff member if the property owner fails to respond to the second notice or if mail has been refused or returned as undeliverable.

7. Assessor's Office records will be reviewed to verify current ownership and mailing addresses where appropriate.

8. Failure to cooperate with the monitoring review process will be considered a breach of the Inclusionary Agreement. County Counsel will be notified of any such breach in order that legal remedies may be initiated.

9. The Housing Authority of Monterey County is responsible for certifying initial tenant income eligibility under the Inclusionary Housing Program. The income guidelines of the Section 8 Program are utilized by Housing and Redevelopment staff for the monitoring review. The guidelines are included in Appendix B.

10. Staff will review information provided by the owner and tenants to determine compliance with the Inclusionary Agreement as it pertains to allowable rents, number of restricted units, current income of tenants and any further restrictions on occupancy specified in the Agreement.

11. The review of rent affordability will include the standards set forth in the Inclusionary Agreement for each individual project. The staff will utilize the most recently published Fair Market Rents and Income Guidelines issued by the State Housing Office or HUD and adjust for the number of bedrooms or household size as appropriate.

12. Leases are reviewed to determine if non-discrimination policies and prohibitions against subletting are included.

13. If there are discrepancies between the statements of the owner and tenant, additional documentation will be requested.

14. Payment of hazard insurance and property taxes is verified as the inclusionary Agreement requires units to remain available for the life of the structure and any replacement.

15. A letter will be issued to the property owner addressing any compliance issues. The letter will specify a corrective action deadline. In general, a 30-day period will be adequate unless the tenants income exceeds the maximum allowable under the terms of the Agreement. In that circumstance, the owner will be allowed a 60-day period in order to provide adequate notice to the tenant. (This section subject to review and approval by County Counsel.)

16. A hardship waiver may be approved by the Housing Advisory Committee upon application by the property owner andlor tenant. Current rental vacancy rates. Actual market rents for comparable rental units and any special circumstance shall be documented and presented to the Committee when the request is considered. Waivers will not be approved for household with incomes over 100% of median. (This section subject to review and approval by County Counsel.)

17. When a property has changed ownership without notice the County and

this information becomes known at the time of the Monitoring review, staff will schedule an appointment with the new owner to discuss the provisions of the Inclusionary Agreement. Current Fair Market Rent Schedules and Income Guidelines will be provided. All other steps in the Inclusionary Procedures will be followed.

18. The Monitoring Review Form will be completed and the tracking sheet will be updated as information is returned and the review proceeds. The Inclusionary Housing database is updated to reflect new information.

19. Other County offices may be alerted when the monitoring review reveals code violation or dangerous situations.

20. Every effort will be made to provide owners and tenants with the appropriate information to ensure a successful monitoring which will result in full compliance with the Inclusionary Housing Program. However, referrals will be made to County Counsel when there has been failure to cooperate or non-compliance issues are not corrected.

INCLUSIONARY HOUSING PROGRAM MONITORING PROCEDURES

OWNER-OCCUPANTS OF FOR SALE UNITS

General Policies:

It is the policy of the County of Monterey to monitor compliance with the terms and conditions of the InclusiOnary Housing Agreement recorded against for-sale units developed under the Inclusionary Housing Program.

Annual Monitoring will include a review of compliance with the owner occupancy requirement and prohibitions against sub-leases unless previously approved by the County. Hazard insurance policies are also reviewed.

Procedures

1. In general, the monitoring process will begin in February each year.

2. All Inclusionary For-Sale units are entered into the monitoring database and a tracking spreadsheet is generated. The spreadsheet includes fields for correspondence, follow-up and data/documents required. Copies of the current spreadsheet, forms and sample letters are included in Appendix C.

3. Initial letters are mailed to the owners requesting completion of certifications regarding owner occupancy and documentation in the form of a recent utility bill with the owners' name and address listed. A copy of the hazard insurance policy is requested.

4. Second notices are sent by certified mail if the property owner does not respond within fourteen business days.

5. Correspondence will be sent by process server, delivery service or hand delivered to the address by a staff member if the owner fails to respond to the second notice or if mail has been refused or returned as undeliverable.

6. Assessor's Office records will be reviewed to verify current ownership, homeowners' exemption status and mailing addresses where appropriate.

7. Deficiencies in the Agreement are addressed during the monitoring, where necessary.

8. Failure to cooperate with the monitoring review will be considered a breach of the Inclusionary Agreement. County Counsel will be notified in order to take

legal action as provided under County Code.

10. If there are discrepancies, additional documentation will be requested.

11. The hazard insurance policy will be reviewed to ascertain whether the amount is sufficient to protect the County's interest and to verify that the County is named as an additional insured.

12. A letter will be issued to the owner addressing any compliance issues. The letter will set a corrective action deadline. In general, a 30-day period will be adequate

13 .When a property has changed ownership without notice to the County and this information becomes known at the time of the monitoring review, staff will schedule an appointment with the new owner to discuss, the terms of the Inclusionary Agreement. The income and other qualifying criteria for the buyer/transferee, sales price and any other pertinent information will be reviewed to determine eligibility under the Program. If the buyer/transferee is not eligible or if the purchase price exceeded program guidelines, the matter will be referred to County Counsel for action.

14. The monitoring spreadsheet is updated as information is received and reviews are completed. The Inclusionary Housing Database is updated tO reflect new information.

15. Other County offices may be alerted when the monitoring review reveals code violations or dangerous situations.

16. Every effort will be made to provide owners with the appropriate information to ensure full compliance with the Agreement. However, referrals to County Counsel will be made when necessary to enforce the Agreement.

BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE COUNTY OF MONTEREY, STATE OF CALIFORNIA

Recommendations Related to Evaluation)
of the Inclusionary Housing Program,)
Approved, as Amended; Direction)
Provided to Staff . . . .)

The Board is in receipt of a report and recommendations contained in the Inclusionary Housing Program Evaluation Report. Jim Çook, Program Manager, Housing and Redevelopment, stated that his department has conducted a detailed review of the Inclusionary Housing Program and has identified a number of recommendations for improving the effectiveness of the Program. Implementing the recommendations will require an amendment to the existing Inclusionary Housing Ordinance, preparation of a procedural manual, and revisions to standard Inclusionary Housing Agreements.

Melanie Shaffer Frietas, Consultant, stated that she prepared the report presented to the Board today. This report is the culmination of a year-long effort. She presented the Board with a brief summary of main issues included in the document.

Members of the public addressed the Board, and offered comments and suggestions concerning the County's Inclusionary Housing Program.

Under Board discussion, Supervisor Pennycook suggested, concerning Issue No. 18, that staff look, not limited to government financing, but any other means by which it can be narrowly and specifically identified by a residential developer that there would be greater affordable housing provided outside the scope of the ordinance than under the ordinance. Staff can certainly could work on broadening Issue No. 18. Supervisor Pennycook concurred with including the Planning Commission recommendation with respect to the inheritance clause. In response, Supervisor Johnsen stated that Issue No. 18 would allow for case-by-case exceptions, which provides for the language in the actual ordinance. This language is pretty broad, and can certainly be included in the Inclusionary Housing Ordinance, without the statement of an exemption.

After discussion, and upon motion of Supervisor Johnsen, seconded by Supervisor Calcagno, and carried by those members present, the Board approved the recommendations contained in the Inclusionary Housing Program Evaluation Report. The motion included the recommendation from the Planning Commission contained in Issue No. 5, Title Changes, "Planning Commission recommendation from September 11, 2001 – To retain existing policy, but to allow a 1-year 'compassion' period for sale of property." Staff is directed to continue to work on developing appropriate language in the Inclusionary Housing Ordinance, to encompass the concept, perhaps in a different vernacular, in order that there wouldn't be any misleading of the development community relative to the financing of affordable housing. The language would provide for case-by-case exemptions to include incentives for developers to work at a higher rate as far as delivery of low income housing.

PASSED AND ADOPTED this 9th day of April, 2002, by the following vote, to-wit:

AYES: Supervisors Armenta, Pennycook, Calcagno and Johnsen.

NOES: None.

ABSENT: Supervisor Potter.

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 71, on April 9, 2002.

DATED: April 9, 2002

SALLY R. REED, Clerk of the Board of Supervisors, County of Monterey, State of California

By: Nancy Lukenbill
Deputy

Human Resources
and Employment Services

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Labor Relations

SERVICES MENU

- Home
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- Labor Relations

The list below contains a variety of documents used by County Personnel and Departmenta Staff. This page was constructed as a resource for County Staff to download and print curr County related procedures and practices. The public is welcome to view any or all of the information contained in these documents.

Employee Relations Bulletin

- Bulletin No.1 - Interpreting Fair labor Standards ACT (FLSA)
- Bulletin No.2 - Examining SB 402
- Bulletin No.3 - Administration of MMB Transcred to PERB

Memoranda of Understandings (MOU) by Bargaining Unit.*

- Units A & B (Safety General & Supervisory Employees)
- Unit C (Sheriff's Association)
- Unit D (Public Defenders Association)
  - Unit D Side Letter Agreements & Amendments
- Unit E (Prosecutor's Association)
  - Unit E Side Letter Agreements & Amendments
- Unit F (Supervisory Employees)
  - Unit F Side Letter Agreements & Amendments
- Unit H (Health Care Employees)
  - Unit H Side Letter Agreements & Amendments
- Unit J (General Employees)
- Unit K (Social Services)
  - Unit K Side Letter Agreements & Amendments
- Units M & N (Probation Association)
- Unit R (Resident Physicians)

*Not all MOU's are currently available. These Units are currently being reviewed and prepared for web posting.

QUICK LINKS

- Current Jobs
- Download Employment Application
- Current Salary Schedule
- FAQ
- Location & Directions
- Site Map
- Departmental Personnel Analyst Phone List
- Occupational Safety and Health Program Web Page

YEAR 2002 Holiday Schedule

Day	Date	Holiday	County	Courts
Tuesday	January 1	New Year's Day	Closed	Closed
Monday	January 21	M. L. King's Birthday	Closed	Closed
Tuesday	February 12	Lincoln's Birthday	Open	Closed
Monday	February 18	President's Day	Closed	Closed
Monday	May 27	Memorial Day	Closed	Closed
Thursday	July 4	Independence Day	Closed	Closed

Documents posted on this site with this image are available in PDF format. Viewing these files

requires the free
Adobe Acrobat Reader.

Need Help?

Monday	September 2	Labor Day	Closed	Closed
Monday	October 14	Columbus Day	Open	Closed
Monday	November 11	Veteran's Day	Closed	Closed
Thursday	November 28	Thanksgiving Day	Closed	Closed
Friday	November 29	Day After Thanksgiving	Closed	Closed
Tuesday	December 24	Christmas Eve	Closed	Open
Wednesday	December 25	Christmas Day	Closed	Closed

PROGRAM OVERVIEW

EMPLOYMENT AT STEP WITHIN SALARY RANGE

Departments have the authority to appoint at any step in the salary range in accordance with the Monterey County Personnel Policies and Practices Resolution No. 98-384.

In determining the appropriate step placement for new employees, the following should be considered:

- Year for year credit for directly related, similar experience (use judgment in deciding applicability of the recency of the experience)
- Difficulty in recruiting qualified candidates
- Unusual qualifications of candidate
- Candidates who would take a pay cut to join County
- Step placement is a deciding factor for candidate accepting employment
- Anticipated difficulty in retaining employee
- Criteria should be applied fairly and equitably among employees
- Budget Implications: Short and Long Term

[For current regular County employees, see also MCPPP §A.5.1 – Salary on Change to a Higher Class for minimum step placement requirements]

PROCEDURES

1. Before formally offering advanced step placement to candidate, Hiring Authority completes "Request for Advanced Step Within Salary Range" form (form A.2.1).
    - Indicates reason for request
    - Gives narrative explanation of considerations
    - Completes "yes/no" questions regarding fair and equitable treatment of employees
    - Provides present County employment information
    - Attaches copy of employment application, resume or other applicable materials

2. "Request for Advanced Step Within Salary Range" form (form A.2.1) is submitted to Department Head or designee for review.

3. Department Head or designee reviews request, annotates with justification for approval/denial, and signs request.

4. "Request for Advanced Step Within Salary Range" form is returned to Hiring Authority who may offer such to candidate.

5. If Advanced Step Placement is approved, the signed "Request for Advanced Step Within Salary Range" form is submitted to Departmental Benefits Coordinator for preparation of Personnel Action Form.

COMPENSATED VOLUNTARY TRAINING PROGRAMS

PROGRAM OVERVIEW

Departments may provide compensation to employees for attendance at qualified voluntary training programs. Availability of this compensation is available to all County employees. Although it is not required that the County compensate employees for attending "voluntary training programs" on their own time, departments may, at their own discretion, approve compensation for employees' attendance at such training. This may include training which employees are ordinarily expected to attend on their own time (e.g. – continuing education credits.)

QUALIFIED PROGRAMS

In order to be designated as a qualified voluntary training program, the following criteria must be met:

- The training program is truly voluntary and in no way required by the County.
- The training program is supported and approved by the Department Head.
- The training program is provided during the employee's non-working hours and in addition to his/her regular working hours.
- The content of the training program is not specific to nor exclusively applicable to the County.
- The training program is similar to training programs provided by other independent agencies or learning institutions.
- The training program is not compensable via any other County policy, departmental policy or MOU provision.

CONSIDERATIONS FOR PROVIDING COMPENSATION

The following factors should be considered when evaluating the appropriateness of providing compensation for attendance at voluntary training programs during non-working hours:

- It is desirable for employee to receive training.
- The training is directly related to employee's current job.
- It is appropriate for the County to provide this training for employees.
- It is necessary and practical to hold the training program outside of regular work hours rather than during work hours.
- It is necessary or beneficial to provide an incentive for the employee to attend this training.

COMPENSATION FOR QUALIFIED PROGRAMS

- Non-overtime exempt employees shall be compensated at their regular rate of pay on an hour-for-hour basis, however these hours shall not be treated as regular hours worked.
- Overtime exempt employees shall receive compensatory time off on an hour-for-hour basis.

PROCEDURES

REQUEST FOR COMPENSATED TRAINING

1. Employee desiring compensation for voluntary training completes and submits "Paid Voluntary Training Request" Form (Form A.48.1a) for Department Head or designee approval at least one pay period prior to the commencement of the training program, indicating:
   - Title and Location of Training Program.
   - Dates and hours of Training.
   - Total hours for which compensation is requested.
   - Brief description of the benefits of the training to the employee's current job.
2. Department Head or designee reviews "Paid Voluntary Training Request" Form and verifies that training meets criteria for designation as a qualified program.
3. Department Head or designee:
   - Determines if requested voluntary training will be compensated.
   - Determines if compensation will be withheld until successful completion of program.
   - Signs signifying approval/denial.
   - Returns form to employee.

PROCESSING COMPENSATION

1. Employee completes time sheet for pay period in which training occurred (or the pay period in which training was completed, if applicable) and attaches to it a copy of approved "Paid Voluntary Training Request" form.
2. Employee submits the time sheet and attached approval form to the Department Payroll Coordinator.
3. Department Payroll Coordinator verifies that the paid voluntary training time has been approved (and completed if necessary) and records time as follows:

   - Overtime eligible employees: input "AT" for DOE code followed by the number of hours that the employee attended training into the Time and Attendance system.

- Overtime-exempt employees: record number of hours employee attended training which shall be provided to employee as time-off on an hour-for-hour basis. Such hours shall be recorded and tracked by the individual departments and shall not be recorded in to the Time and Attendance system.

EMPLOYMENT BONUS

PROGRAM OVERVIEW

The Employment Bonus Program authorizes the CAO or designee to designate certain positions as "difficult to fill" and to authorize payment of up to $5000 to new, permanent employees hired into those positions. For purposes of this Program, a new employee is defined as a person who has not been employed in the same classification with the County of Monterey within the last year. The CAO may waive the time requirement for extenuating circumstances as requested by the Department Head. The Employment Bonus is treated as income according to the applicable rules of taxation and withholding deductions and is paid on the first pay period following completion of any required time served.

The Employment Bonus is paid in the employee's paycheck as follows:

20% upon hire (1st paycheck)
30% after the completion of 90 days of employment
50% at the completion of one calendar year of service

DESIGNATION OF POSITIONS AS "DIFFICULT TO FILL"

The following factors are considered in recommending the designation of a position as "Difficult-To-Fill":

DEMOGRAPHIC:

- Candidates with the competencies needed for this position are typically difficult to find in the local recruitment area.
- Local educational institutions do not specialize in this particular profession or technical field; as so limit the number of qualified applicants.
- Other large employers in the geographical area are actively competing for similar, highly sought after competencies.

ECONOMIC:

- Candidates with the level of knowledge, skills and abilities required to fill the vacancy may be deterred by economic factors such as: housing prices, cost of goods and services, availability of those services, and current lifestyle affordability.

SOCIOLOGICAL:

- Candidates with the level of competencies and experience required for this position are reluctant to relocate due to their involvement and establishment in their communities or professional organizations.

CONDITION OF CURRENT LABOR MARKET:

- Due to various factors adversely affecting the current labor market, the particular skill required to fill the vacancy is scarce.

POSITIONS THAT ARE DIFFICULT FOR THE COUNTY TO STAFF

- Recruitments for classifications that have been repeated with no success, have a known history of being difficult to recruit for, or to which are difficult to attract qualified candidates.

ESTABLISHING CRITERIA FOR VARIABLE BONUS AMOUNTS

Once a class/position has been designated as "difficult to fill" and a maximum bonus amount authorized, the Department Head may choose to pay eligible candidates different bonus amounts (up to the authorized maximum amount) based on criteria such as experience, training required, special skills, etc. If a Department chooses to pay different bonus amounts, it is imperative that the Department Head, Department Personnel Analyst and Hiring Manager develop and document the criteria for the hiring bonus amounts to be paid.

PROCEDURES

DESIGNATING A POSITION AS ELIGIBLE FOR THE PROGRAM

1. Hiring Manager submits a completed "Recommendation for Employment Bonus" Form (form A. 49.1 a) to the Department Personnel Analyst indicating the following:
   - Title and class code of position requested for employment bonus
   - Particular position/assignment within the class (if request is restricted to certain positions/assignments with in the class)
   - Requested maximum amount of Employment Bonus (up to $5000)
   - Narrative explanation of factors used to justify recommendation to designate class/position as "Difficult to Fill".
2. Department Personnel Analyst reviews "Recommendation for Employment Bonus" Form, verifies class title and class code, signs acknowledging review, and submits to the Department Head or Designee.
3. Department Head or designee reviews "Recommendation for Employment Bonus" Form, signs acknowledging approval/denial of class and bonus amount, and returns form to Department Head or Designee to both the Department Personnel Analyst and the Hiring Manager.

AWARDING THE EMPLOYMENT BONUS

1. Before offering the Employment Bonus to a potential candidates, the Hiring Authority verifies that the candidate meets the following eligibility criteria:
   - is a new employee
   - has not been employed in the same classification with the with the County of Monterey within the last year
   - is being offered employment into a permanent position
2. Upon acceptance of the position by the candidate, the Hiring Authority submits a copy of the signed "Recommendation for Employment Bonus" form to the Department Payroll Coordinator for preparation of Personnel Action Form and an Employment Bonus Payment Worksheet (form A.49.1 b).
3. The Departmental Payroll Coordinator verifies that the new employee:
   - is a new employee
   - has not been employed in the same classification with the with the County of Monterey within the last year
   - has been hired into a permanent position
4. The Departmental Payroll Coordinator submits for processing.
   - a new employee Personnel Action Form with the following statement typed in the "Remarks" box:
     "Include Employment Bonus payment of $ ______ as indicated on attached Employment Bonus Payment Worksheet"
   - a copy of the signed "Recommendation for Employment Bonus" form
   - an Employment Bonus Payment Worksheet requesting the initial payment
5. Once the subject employee completes 90 claendar days of employment, the Department Payroll Coordinator verifies that the employee is still employed in a permanent position with the County and submits the following for processing:
   - a Personnel Action Form with the following statement typed in the "Remarks" box:
     "Include Employment Bonus payment of $ ______ as indicated on attached Employment Bonus Payment Worksheet"
   - an Employment Bonus Payment Worksheet requesting the second payment
6. Upon completion of one calendar year of employment, the Department Payroll Coordinator verifies that the employee is still employed in a permanent position with the County and submits the following for processing:
   - a Personnel Action Form with the following statement typed in the "Remarks" box:
     "Include Employment Bonus payment of $ ______ as indicated on attached Employment Bonus Payment Worksheet"
   - an Employment Bonus Payment Worksheet requesting the final payment
7. The completed employment paperwork, a copy of the "Recommendation for Employment Bonus" form and copies of the Employment Bonus Payment Worksheet are placed in the employee's Departmental Personnel File.

EMPLOYEE REFERRAL BONUS PROGRAM

The Employee Referral Bonus Program authorizes the CAO or designee to authorize payment of up to $2000 to current, regular County employees who refer a successful candidate hired into a 'difficult to fill' position. The Employee Referral Bonus Program is open to all eligible employees, and is applicable to any position deemed eligible for the Bonus Referral by the Department Head. The Referral Bonus is treated as income according to the applicable rules of taxation and withholding.

The Referral Bonus is paid in the referring employee's paycheck as follows:
50% after the referred successful candidate completes his/her first pay period
50% at the completion of the referred successful candidate's first calendar year of service

ELIGIBLE EMPLOYEES

- Any current permanent or seasonal employee is eligible to participate in the Employee Referral Bonus program, with the exception of the County Administrative Office staff, Departmental Human Resources staff, Department Heads, Hiring Managers, the Board of Supervisors, and any staff with direct involvement in the pre-employment exam and selection process for an eligible classification.
- For the purposes of this program, "referring employee" means a current permanent or seasonal employee with the County of Monterey.

PAYMENT OF THE REFERRAL BONUS

- For purposes of this program, a "referred successful candidate" is defined as a person hired as a full-time or part-time permanent or seasonal employee who has not been employed in the same classification with the County of Monterey within the last two years. (The CAO may waive this time limit for extenuating circumstances upon the request and justification of the Department Head.) The amount of the Referral Bonus will be up to a total of $2000.00 as determined by the Department Head.
- When the referred successful candidate is hired, one-half of the bonus will be paid to the referring employee as taxable income. The remaining balance will be paid to the referring employee at the completion of the referred successful candidate's first year of service, providing that both the referring employee and the referred successful candidate are still active employees and the referred successful candidate has met satisfactory performance and attendance requirements.
- Referring employees shall be designated by the applicant by submitting a completed "Referral by County Employee" Form at the time of application.
- In the event that more than one County employee is designated as a referring employee and the referred successful candidate, the Referral Bonus will be equally apportioned among the employees making the referral.

DESIGNATION OF POSITIONS AS "DIFFICULT TO FILL"

The following factors are considered in recommending the designation of a position as "Difficult-To-Fill":

DEMOGRAPHIC:

- Candidates with the competencies needed for this position are typically difficult to find in the local recruitment area.
- Local educational institutions do not specialize in this particular profession or technical field; as so limit the number of qualified applicants.
- Other large employers in the geographical area are actively competing for similar, highly sought after competencies.

ECONOMIC:

- Candidates with the level of knowledge, skills and abilities required to fill the vacancy may be deterred by economic factors such as: housing prices, cost of goods and services, availability of those services, and current lifestyle affordability.

SOCIOLOGICAL:

- Candidates with the level of competencies and experience required for this position are reluctant to relocate due to their involvement and establishment in their communities or professional organizations.

CONDITION OF CURRENT LABOR MARKET:

- Due to various factors adversely affecting the current labor market, the particular skill required to fill the vacancy is scarce.

POSITIONS THAT ARE DIFFICULT FOR THE COUNTY TO STAFF

- Recruitments for classifications that have been repeated with no success, have a known history of being difficult to recruit for, or to which are difficult to attract qualified candidates.

DESIGNATING POSITIONS AS ELIGIBLE FOR THE REFERRAL BONUS

The Employee Referral Bonus is one tool that is used in conjunction with other recruitment sources to fill a job vacancy for positions that are designated by the department head as "Difficult to Fill". This guide is provided to assist Departments in deciding the feasibility of offering a Referral Bonus to eligible employees.

The hiring department should consider if the following factors exist:

- Participation of County employees in the recruitment process would enhance existing advertising and recruitment methods
- The Referral Bonus is a cost-effective way to expand the qualified applicant pool.
- There is a need to fill the vacancy expeditiously and assistance from County employees in identifying and encouraging applicants would help recruitment efforts.
- Employees would respond positively to the incentive offered and take an active role in assisting the referred successful candidate in assimilating into the organization.
- County employees would assist is identifying new qualified candidates to the County.

ESTABLISHING A CRITERIA FOR VARIABLE REFERRAL BONUS AMOUNTS

Once a class/position has been designated as eligible for the Employee Referral Bonus Program and a maximum bonus amount authorized, the Department Head may choose to pay eligible County employees different referral amounts based on criteria including the potential increase in employee morale, difficulty in filling the position and how long the position has been vacant, and applicable experience level of the new employee. If a Department chooses to pay different bonus amounts, it is imperative that the Department Head, Department Personnel Analyst and Hiring Manager develop and document the criteria for the referral bonus amounts to be paid.

PROCEDURES

DESIGNATING A CLASS/POSITION AS ELIGIBLE FOR THE REFERRAL BONUS

1. Hiring Manager submits a completed "Request to Participate in Employee Referral Bonus Program" Form (form A.49.2.a) to the Department Personnel Analyst indicating the following:
   - Class (and particular position/assignment, if request is restricted to certain positions/assignments with in the class) requested for referral bonus
   - Indicates reasons the recruitment is eligible to participate in the Employee Referral Bonus Program.
   - Maximum amount of Referral bonus (up to $2000).
   - Explanation of factors used to justify recommendation to designate class/position as "Difficult to Fill" and offer the bonus amount in the form of a brief narrative.
2. Department Personnel Analyst reviews "Request to Participate in Employee Referral Bonus Program" Form, verifies class title and, signs acknowledging review, and submits to the Department Head or designee.
3. Department Head or designee reviews "Request to Participate in Employee Referral Bonus Program" Form, signs acknowledging approval/denial of class/position and bonus amount,
4. Department Head routes "Request to Participate in Employee Referral Bonus Program" form to both the Department Personnel Analyst and the Hiring Manager.

5. Department Personnel Analyst includes information regarding "Referral by County Employee" Form (form A.49.2.b) in application materials and notifies County employees of Referral Bonus being offered.

AWARDING THE EMPLOYMENT REFERRAL BONUS

1. Upon the referred successful candidate completing his/her first pay period the Department Personnel Analyst submits the signed "Referral by County Employee" Form and a copy of the "Request to Participate in Employee Referral Bonus Program" form (with any changes, if a lesser bonus amount is applicable), to the Departmental Payroll Coordinator for preparation of a Employment Referral Bonus Worksheet.
2. The Departmental Payroll Coordinator verifies that:
   - The referring employee is a current permanent or seasonal employee with the County of Monterey and is an eligible employee for the Referral Bonus.
   - The referred successful candidate has not been employed in the same classification with the County of Monterey within the last two years.
3. The Departmental Payroll Coordinator completes a "Referral Bonus Payment Worksheet" (form A.49.2.b) authorizing payment of the first 50% of the referral bonus and submits it to the Auditor-Controller's Office for processing.
4. Upon completion of the first calendar year of employment of the referred successful candidate, the Departmental Payroll Coordinator verifies that:
   - The referring employee is a current permanent or seasonal employee with the County of Monterey and is an eligible employee for the Referral Bonus.
   - The referred successful candidate is still employed in a permanent position with the County
5. The Departmental Payroll Coordinator completes a "Referral Bonus Payment Worksheet" form authorizing payment of the final 50% of the referral bonus and submits it to the Auditor-Controller's Office for processing.

EDUCATIONAL ASSISTANCE PROGRAM

PROGRAM OVERVIEW

The County of Monterey Education Assistance Program provides non-taxable financial support to employees who pursue professional growth and development through higher education. This policy is intended to be a qualified educational assistance program pursuant to the Internal Revenue Code [26 USC 127] and Internal Revenue Service ("IRS") Regulations [26 CFR 1.127-2]. This policy complies with existing IRS law and regulations and takes advantage of favorable changes in IRS Regulations effective January 01, 2002. These changes in IRS Regulations broaden the scope of tax-exempt educational assistance.

The IRS requires that the tax-exempt program be maintained separate from any other County of Monterey Educational Assistance Program. This Program replaces the program created by the Tuition Assistance – Professional Development Policy (and related sections of the Personnel Policies, and Practices Resolution) approved by the Board of Supervisors on July 31, 2001.

This program does not discriminate between employee classifications, favor higher compensated employees over other employees, or favor one type of qualified educational pursuit over another. The IRS recognizes that collective bargaining agreements may provide employees with different levels of educational benefits. The IRS Regulations exclude bargained educational benefits from the discrimination prohibition [26 CFR 1.127-2(e)].

ELIGIBLE EMPLOYEES

- All County full-time permanent, seasonal and temporary employees are eligible for qualified assistance under this program.
- For the purposes of this program, "full-time" is defined as working 64 hours or greater per pay period.
- Spouses and dependents of employees who are not County employees are not eligible for assistance under this program.
- Employees participating in this program must maintain continuous County employment from the date of enrollment until the date the Educational Assistance Claim Form is submitted.

ELIGIBLE COURSES

- Reimbursement under this plan shall be limited to educational assistance as defined by the IRS. The benefits provided under this program must consist solely of educational assistance as defined by IRS Code Section 1.127-2(c).
- For purposes of this Program, the term "education" is defined as any form of instruction or training that improves or develops the capability of an individual.

- Education paid for or provided under a qualified program may be furnished directly by the employer, either alone or in conjunction with other employers, or through a third party such as an educational institution. Education is not limited to courses that are job related or are part of a degree program. [26 CFR 1.127-2(c)(4)]
- Continuing education, licensing, certification, correspondence and on-line computer courses are eligible under this program.
- This program treats institutions located outside of Monterey County the same as institutions within Monterey County.

ELIGIBLE EDUCATIONAL EXPENSES

The following costs are eligible for reimbursement:

- Tuition Fees
- Registration Fees
- Student Identification Card Fees
- Required Lab Fees
- Required Textbooks
- Required supplies that are not retained after the course is completed.

The County will <u>not</u> reimburse or pay for the provision of:

- Tools or supplies (other than textbooks) that the employee may retain after completing a course of instruction
- Meals, lodging, transportation (including parking and mileage)
- Education involving sports, games, or hobbies, unless such education involves the business of the County of Monterey or is required as part of a degree program. The phrase "sports, games, or hobbies" does not include education that instructs employees how to maintain and improve health as long as such education does not involve the use of the athletic facilities or equipment and is not recreational in nature. [26 CFR 1.127-2(c)]

<u>ANNUAL REIMBURSEMENT LIMIT</u>

- Reimbursement under this program shall not exceed the calendar year limit established by the IRS.
- Effective January 01, 2002, the limit for Monterey County employees under this program shall not exceed $2,500 annual reimbursement. However, where circumstances permit, departments may authorize the reimbursement limit to be increased to $5,250.
- Future changes in the limit established by the IRS shall automatically be incorporated into this policy.

For current version of this Administrative Procedure, be sure to check the website at www.co.monterey.ca.us/personnel/Documents.html

EMPLOYEE OBLIGATIONS

Grades:

- In order to qualify for reimbursement for educational expenses under this program, an employee must receive a passing grade of "C" or better (or the equivalent).
- If an "I" or "Incomplete" is given, the employee will have until the end of the following quarter/semester in which to complete the course in order to receive reimbursement.
- For courses, licensure, certification, or "specialized" training programs requiring a grade of "Pass/Fail", a grade of "Pass" must be awarded to secure reimbursement.
- Withdrawal from a course prior to completion will result in the denial of reimbursement.
- Educational Assistance funds may not be used for courses that are only audited by the employee (e.g., the employee does not receive a grade or units of credit).

Reimbursement:

- Employees must comply with the Educational Assistance reimbursement procedures below.
- Employees must complete the required notification and claim forms, provide documentation regarding course completion and grades, as well as receipts, cancelled checks, or other substantiating documentation for other costs being claimed.

Scheduling:

- Courses should normally be taken outside of scheduled working hours. However, if the course is not offered at that time and must be taken during working hours, the employee may only do so with the approval of his or her supervisor. The supervisor must verify that the employee's attendance at class(es) will not adversely affect department services.

Noticing Requirement

- The County shall notify all employees of the terms and availability of this Program on a regular basis. [26 CFR 1.127-2(g)]
- Employees shall provide notice of intent to seek reimbursement and confirm understanding of the conditions of reimbursement prior to or at the time of enrollment in the course.

PROCEDURES

APPLYING FOR EDUCATIONAL ASSISTANCE

1. Eligible employee obtains **"NOTICE OF INTENT TO CLAIM EDUCATIONAL ASSISTANCE"** (form A.48.2 a) from Department Benefit Coordinator.

2. Eligible employee completes "NOTICE OF INTENT TO CLAIM EDUCATIONAL ASSISTANCE" (form A.48.2 a) and returns it to the Department Benefit Coordinator prior to or at the time of enrollment in the course.
3. Departmental Benefit Coordinator provides copy of completed "NOTICE OF INTENT TO CLAIM EDUCATIONAL ASSISTANCE" (form A.48.2 a) to Office of Employee Relations.

<u>PROCESSING A CLAIM FOR EDUCATIONAL ASSISTANCE</u>

1. Eligible employee obtains **"EDUCATION ASSISTANCE CLAIM"** (form A.48.2 b) and **"COUNTY OF MONTEREY CLAIM FOR PAYMENT"** form from Department Benefit Coordinator.
2. Eligible employee returns completed "EDUCATION ASSISTANCE CLAIM" (form A.48.2 b) and "COUNTY OF MONTEREY CLAIM FOR PAYMENT" form to Department Benefit Coordinator <u>within 30 days</u> after the course is completed and the grade received with the following attachments:
   - Copy of official grade report or certificate of passing.
     - In order to qualify for reimbursement for educational expenses under this program, an employee must provide documentation that s/he received a passing grade of "C" or better (or the equivalent).
     - If an "I" or "Incomplete" is given, then the employee will have until the end of the following quarter/semester in which to complete the course in order to receive reimbursement.
     - For courses, licensure, certification, or "specialized" training programs requiring a grade of "Pass/Fail", a grade of "Pass" must be awarded to secure reimbursement.
   - Copies of all receipts associated with coursework (e.g., registration, tuition, textbooks, lab fees, etc.)
     - Reimbursement of claimed items shall be based upon the availability of associated receipts.
     - If receipt(s) are not included with claim form, item(s) being claimed will not be reimbursed.
4. Department Benefit Coordinator verifies that:
   - Course was completed with a grade of "C" or better or a grade of "Pass" for coursework, training, licensure, or certification programs conducted on a Pass/Fail basis.
   - Verifies that all receipts for expenses incurred are associated with reimbursement claim.
   - Verifies that "COUNTY OF MONTEREY CLAIM FOR PAYMENT" form includes the following information:

   Fund: 0001
   Budget Unit: 130
   Organization: 1300
   Account: 6342

5. Department Benefit Coordinator submits "EDUCATION ASSISTANCE CLAIM" (form A.48.2 b) and "COUNTY OF MONTEREY CLAIM FOR PAYMENT" form and attachments to Auditor's Office, **Attention: ACCOUNTS PAYABLE DIVISION.**

6. Accounts Payable Division approves/denies claim and returns "EDUCATION ASSISTANCE CLAIM" (form A.48.2 b) and "COUNTY OF MONTEREY CLAIM FOR PAYMENT" form as follows:
   - Copy to Office of Employee Relations
   - Copy to employee
   - Copy to Department Benefit Coordinator

7. Accounts Payable Division processes payment, if claim approved.